Designation Run Report

Hillliard, Gary - Plaintiffs' Submission

Hilliard, Gary 01-10-2019

Plaintiffs Affirmative Designations 01:21:19

Plaintiffs Counters 00:01:13

Defense Counter Designations 00:00:19

Defense Completeness Counters 00:18:05

Total Time 01:40:55

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14:08 - 14:12	**Hilliard, Gary 01-10-2019 (00:00:04)** 14:8 Q. Good morning. 14:9 A. Good morning. 14:10 Q. Can I get your full name, 14:11 please? 14:12 A. Gary Lawrence Hilliard.	GH07.1
17:06 - 18:01	**Hilliard, Gary 01-10-2019 (00:00:38)** 17:6 Q. Okay. Now, the time from 1997 17:7 to 2016 while you were at McKesson, during 17:8 that entire span, were you a director of 17:9 regulatory affairs? 17:10 A. I started as a manager of 17:11 regulatory affairs. 17:12 Q. Okay. So tell me what time 17:13 period you were the manager. 17:14 A. It was approximately a year, so 17:15 approximately '97-98. 17:16 Q. Okay. 17:17 A. I don't remember the exact time 17:18 frame. 17:19 Q. That approximation is good 17:20 enough. So approximately 1998 you take over 17:21 as director of regulatory affairs. Do you 17:22 hold that position until 2016 when you leave? 17:23 A. That's correct. 17:24 Q. Okay. Do you know what month 17:25 in 2016 you left? 18:1 A. July, I believe.	GH07.2
18:02 - 19:09	**Hilliard, Gary 01-10-2019 (00:01:46)** 18:2 Q. Okay. So give me a sense, 18:3 while you were at McKesson working at 18:4 director of regulatory affairs, what your 18:5 general job responsibilities were. 18:6 A. My role changed over the years, 18:7 but as I started, I had responsibility for 18:8 DEA compliance for our pharma distribution 18:9 centers within the U.S. I was over 30 18:10 facilities, I don't recall exactly, but... 18:11 so that entailed things such as the 18:12 management of the SOP, the audit, ARCOS, loss	GH07.3

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18:13 and theft, any issue resolution; I would
18:14 assist with fiscal DEA audits, also with
18:15 corrective actions if there were any
18:16 corrective actions with that; the suspicious
18:17 order program that was in place at the time.
18:18 Q. Okay.
18:19 A. And then additionally I also
18:20 had responsibility for HAZMAT, hazardous
18:21 materials. I also had responsibility for EPA
18:22 environmental issues, waste disposal. I also
18:23 had responsibility for DEA registrations,
18:24 state licensure. I was also active with the
18:25 industry association with NWDA on working
19:1 committees for both federal and state.
19:2 Q. Is that the -- I'm sorry, go
19:3 ahead. Keep going.
19:4 A. And did some work on the OSHA
19:5 side as well for safety.
19:6 Q. Okay.
19:7 A. Also, I had responsibility for
19:8 FDA actions for -- as it related to our
19:9 operations.

19:14 - 21:07 **Hilliard, Gary 01-10-2019 (00:01:41)** GH07.4

19:14 Q. A few follow-up
19:15 questions for you on a couple of these points
19:16 you gave me. You said you were responsible
19:17 for the SOP. What SOP are you referring to?
19:18 A. Section 55 is what we referred
19:19 it to when we started. It was already in
19:20 place when I arrived at McKesson, and follow
19:21 up on that until a migration took place,
19:22 changes took place in the 2006 time frame.
19:23 Q. Okay. Because you guys went
19:24 from Section 55 to approximately 2007, you go
19:25 to the LDMP, the Lifestyle Drug Management
20:1 Program? True?
20:2 A. True.
20:3 Q. Okay. And then in
20:4 approximately 2008, you go to the Controlled
20:5 Substances Monitoring Program, otherwise

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	20:6 known as the CSMP. True? 20:7 A. True. 20:8 Q. Okay. So did you have 20:9 responsibility for -- let's do one by one. 20:10 So the Section 55 component, you had 20:11 responsibility for Section 55 in what 20:12 respect? 20:13 A. Updates and adherence for our 20:14 operations to the policy. 20:15 Q. For what period of time did you 20:16 have that responsibility? 20:17 A. From '97 till 2006. 20:18 Q. Okay. Let's talk about the 20:19 LDMP. Did you have any responsibility 20:20 related to the LDMP? 20:21 A. I helped create that LDMP 20:22 process. 20:23 Q. Okay. So after it was created, 20:24 what was your responsibility in relationship 20:25 to that program? 21:1 A. I worked with our team to 21:2 ensure compliance with that program and to 21:3 develop it. 21:4 Q. Okay. What about the CSMP? 21:5 What involvement did you have with the CSMP? 21:6 A. I also helped write that SOP as 21:7 well.	
29:11 - 29:15	**Hilliard, Gary 01-10-2019 (00:00:13)** 29:11 So from 1997 to 2007, would you 29:12 have had responsibility for compliance with 29:13 the Controlled Substances Act as it pertained 29:14 to all of McKesson's distribution centers? 29:15 A. That would be correct.	GH07.5
29:16 - 30:01	**Hilliard, Gary 01-10-2019 (00:00:23)** 29:16 Q. Okay. And, now, in 2008, as I 29:17 understand it, there were some additional 29:18 people added to McKesson's regulatory team. 29:19 Is that true? 29:20 A. That's correct. 29:21 Q. Okay. And so when that change	GH07.6

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	29:22 occurred and additional people were added, as 29:23 I understand it, you would then have not been 29:24 responsible for all of those distribution 29:25 centers when it pertains to Controlled 30:1 Substance Act compliance. True?	
30:04 - 30:08	**Hilliard, Gary 01-10-2019 (00:00:15)** 30:4 A. There were regional directors 30:5 and I did not have a region. So the regional 30:6 directors specifically worked with the new 30:7 programs that were being developed, whereas I 30:8 worked on other operational aspects.	GH07.7
33:13 - 33:21	**Hilliard, Gary 01-10-2019 (00:00:21)** 33:13 Q. Did you ever have any 33:14 discussions with any of your colleagues at 33:15 McKesson about a potential opioid epidemic in 33:16 this country? 33:17 A. Not that I recall in that 33:18 frame -- of that terminology. 33:19 Q. Okay. Any other sort of 33:20 terminology that you would utilize that you 33:21 did have such a discussion?	GH07.8
33:24 - 34:17	**Hilliard, Gary 01-10-2019 (00:01:06)** 33:24 A. There were presentations that 33:25 we saw for training after some of the 34:1 communications took place between McKesson 34:2 headquarters and DEA headquarters. 34:3 QUESTIONS BY MR. BOGLE: 34:4 Q. Okay. Do you recall what 34:5 presentations you received in that regard? 34:6 A. There was a DEA conference 34:7 where they had a presentation and they were 34:8 talking about the levels of opioids that were 34:9 being used out -- illegitimately. I don't 34:10 recall the exact details of it, but they had 34:11 a presentation -- 34:12 Q. Okay. 34:13 A. -- at a national conference. 34:14 Q. Okay. Would that have been a 34:15 conference you attended in 2007? 34:16 A. I don't recall the exact date	GH07.9

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	34:17 of that conference.	
34:18 - 34:21	**Hilliard, Gary 01-10-2019 (00:00:09)**	GH07.10
	34:18 Q. Okay. Did you ever have any 34:19 personal concern while you were at McKesson 34:20 that there was an opioid epidemic ongoing? 34:21 A. No, I didn't.	
49:24 - 50:01	**Hilliard, Gary 01-10-2019 (00:00:07)**	GH07.11
	49:24 Q. Okay. Do you have an 49:25 understanding as to why the CSMP blocked 50:1 suspicious orders?	
50:05 - 50:05	**Hilliard, Gary 01-10-2019 (00:00:02)**	GH07.12
	50:5 Q. Why that was a component of it?	
50:08 - 50:09	**Hilliard, Gary 01-10-2019 (00:00:03)**	GH07.13
	50:8 A. A guidance document provided by 50:9 Rannazzisi.	
50:11 - 50:12	**Hilliard, Gary 01-10-2019 (00:00:04)**	GH07.14
	50:11 Q. And do you recall when you 50:12 first saw that guidance document?	
50:15 - 50:15	**Hilliard, Gary 01-10-2019 (00:00:02)**	GH07.15
	50:15 A. Approximately 2006.	
50:17 - 50:21	**Hilliard, Gary 01-10-2019 (00:00:12)**	GH07.16
	50:17 Q. Okay. And so prior to 50:18 receiving that document in approximately 50:19 2006, it was your personal belief that there 50:20 was no responsibility for McKesson to block 50:21 suspicious orders. Is that true?	
50:24 - 50:25	**Hilliard, Gary 01-10-2019 (00:00:03)**	GH07.17
	50:24 A. It was not a requirement of the 50:25 CSA.	
51:02 - 51:06	**Hilliard, Gary 01-10-2019 (00:00:14)**	GH07.18
	51:2 Q. Okay. And so if I'm 51:3 understanding your testimony correctly, prior 51:4 to the implementation of the CSMP in 2008, it 51:5 was not McKesson's policy to block suspicious 51:6 orders. Is that true?	
51:09 - 51:10	**Hilliard, Gary 01-10-2019 (00:00:04)**	GH07.19
	51:9 A. Blocking of the orders was not 51:10 a requirement under the CSA.	
53:04 - 53:06	**Hilliard, Gary 01-10-2019 (00:00:14)**	GH07.20
	53:4 Q. Okay. I'm going to hand you	

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	53:5 what I'm marking as Exhibit 3, which is 53:6 1.1464, and that's MCKMDL00478906.	
53:10 - 53:22	**Hilliard, Gary 01-10-2019 (00:00:20)** 53:10 Q. And you see this is a letter 53:11 from the U.S. Department of Justice Drug 53:12 Enforcement Administration dated 53:13 September 27, 2006. 53:14 Do you see that? 53:15 A. I see that. 53:16 Q. Is this the guidance document 53:17 from Mr. Rannazzisi that you were referring 53:18 to a minute ago? 53:19 A. Yes, it is. 53:20 Q. Okay. So you've seen this 53:21 document before. True? 53:22 A. Yes.	GH07.21
60:20 - 61:06	**Hilliard, Gary 01-10-2019 (00:00:25)** 60:20 Q. Okay. It goes on and says: 60:21 Thus, in addition to reporting all suspicious 60:22 orders, a distributor has a statutory 60:23 responsibility to exercise due diligence to 60:24 avoid filling suspicious orders that might be 60:25 diverted into other than legitimate medical, 61:1 scientific, and industrial channels. 61:2 Do you see that? 61:3 A. I see that. 61:4 Q. Okay. And that's referring to 61:5 the requirement to block suspicious orders 61:6 when they're detected, right?	GH07.22
61:09 - 61:09	**Hilliard, Gary 01-10-2019 (00:00:02)** 61:9 A. I'm not sure.	GH07.23
62:03 - 62:09	**Hilliard, Gary 01-10-2019 (00:00:15)** 62:3 Q. Okay. That would have fallen 62:4 within your purview, though. If the DEA's 62:5 view is that this is part of McKesson's 62:6 responsibilities under the Controlled 62:7 Substances Act in 2006 time frame, that would 62:8 have been within your purview of your 62:9 responsibilities, right?	GH07.24
62:12 - 63:02	**Hilliard, Gary 01-10-2019 (00:00:37)**	GH07.25

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	62:12 A. I don't recall. 62:13 QUESTIONS BY MR. BOGLE: 62:14 Q. Okay. I think we talked about 62:15 earlier in the deposition that compliance 62:16 with the Controlled Substances Act would have 62:17 been part of your responsibilities in this 62:18 time frame, right? 62:19 A. That's correct. 62:20 Q. Okay. So if the DEA -- 62:21 Mr. Rannazzisi from the DEA is indicating 62:22 here that there's a requirement here, a 62:23 regulatory requirement, to avoid filling 62:24 suspicious orders of controlled substances, 62:25 would that not have fallen within your 63:1 purview to make sure that McKesson complied 63:2 with that portion of the regulations?	
63:05 - 63:19	**Hilliard, Gary 01-10-2019 (00:00:37)** 63:5 A. We worked within the 63:6 requirements of CSA, and based on the 63:7 guidance document, we developed the LDMP 63:8 program, then into the CSMP program that did 63:9 block the orders. 63:10 QUESTIONS BY MR. BOGLE: 63:11 Q. Well, LDMP did not have a 63:12 blocking mechanism to it, did it? 63:13 A. No. 63:14 Q. Okay. So I guess what I'm 63:15 trying to understand is if you didn't 63:16 understand what was meant by this sentence 63:17 from Mr. Rannazzisi's letter, how could you 63:18 properly develop a program to address what 63:19 he's asking you to do?	**GH07.26**
63:22 - 64:05	**Hilliard, Gary 01-10-2019 (00:00:23)** 63:22 A. I don't recall the 63:23 circumstances that took place. 63:24 QUESTIONS BY MR. BOGLE: 63:25 Q. Okay. But I guess what I'm 64:1 asking you is, if you were unclear as to what 64:2 Mr. Rannazzisi was saying here about avoiding 64:3 filling suspicious orders, how could you	**GH07.27**

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	64:4 design a regulatory program to meet this 64:5 demand?	
64:09 - 65:02	**Hilliard, Gary 01-10-2019 (00:00:46)** 64:9 A. I don't -- I don't recall. 64:10 QUESTIONS BY MR. BOGLE: 64:11 Q. Okay. The next paragraph down 64:12 says: In a similar vein, given the 64:13 requirement under Section 823(e) that a 64:14 distributor maintain effective controls 64:15 against diversion, a distributor may not 64:16 simply rely on the fact that the person 64:17 placing the suspicious order is a DEA 64:18 registrant and turn a blind eye to the 64:19 suspicious circumstances. Again, to maintain 64:20 effective controls against diversion as 64:21 Section 823(e) requires, the distributor 64:22 should exercise due care in confirming the 64:23 legitimacy of all orders prior to filling. 64:24 Do you see that? 64:25 A. Yes, I see that. 65:1 Q. The last sentence I just read 65:2 there, what do you understand that to mean?	GH07.28
65:05 - 65:05	**Hilliard, Gary 01-10-2019 (00:00:02)** 65:5 A. I'm not sure what it means.	GH07.29
66:04 - 66:17	**Hilliard, Gary 01-10-2019 (00:00:29)** 66:4 Q. Okay. But we can agree that 66:5 you did perform regulatory compliance, 66:6 including for the Controlled Substances Act 66:7 for McKesson, all the way up until about two 66:8 years ago, right? 66:9 A. That's correct. 66:10 Q. Okay. And we can also agree 66:11 this is a letter that you would have read in 66:12 your course of employment at McKesson, right? 66:13 A. That's correct. 66:14 Q. Did you follow up with anyone 66:15 at DEA about any of -- anything in this 66:16 letter that you were unclear on? 66:17 A. Not that I recall.	GH07.30
66:23 - 67:03	**Hilliard, Gary 01-10-2019 (00:00:13)**	GH07.31

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	66:23 Q. But I think you said earlier 66:24 that upon reading this letter, the takeaway 66:25 from McKesson was that the company needed to 67:1 start blocking suspicious orders of 67:2 controlled substances when they were 67:3 detected. True?	
67:06 - 67:08	**Hilliard, Gary 01-10-2019 (00:00:06)** 67:6 A. I said that this is when we 67:7 started developing the new CSMP program which 67:8 blocked the orders.	GH07.32
67:10 - 67:12	**Hilliard, Gary 01-10-2019 (00:00:07)** 67:10 Q. Right. So this was the impetus 67:11 for creating a program that would block 67:12 suspicious orders, right?	GH07.33
67:15 - 67:17	**Hilliard, Gary 01-10-2019 (00:00:08)** 67:15 A. I don't recall the details 67:16 around what preempted the development, but 67:17 this is about the same time frame.	GH07.34
67:19 - 68:07	**Hilliard, Gary 01-10-2019 (00:00:35)** 67:19 Q. Okay. I think you said earlier 67:20 it was this guidance letter that did prompt 67:21 the creation of the blocking mechanism in the 67:22 CSMP. 67:23 Did I misunderstand you there? 67:24 A. As I recall, this was about the 67:25 same time frame and this is when we started 68:1 the development of the CSMP. 68:2 Q. Okay. But the actual CSMP 68:3 itself did not go into effect until 68:4 approximately May 2008, right? 68:5 A. That sounds about correct. 68:6 Q. Okay. So just shy of two years 68:7 after this letter, correct?	GH07.35
68:10 - 68:10	**Hilliard, Gary 01-10-2019 (00:00:02)** 68:10 A. That is the date listed.	GH07.36
79:17 - 79:19	**Hilliard, Gary 01-10-2019 (00:00:15)** 79:17 Q. Okay. I'm going to hand you 79:18 what I'm marking as Exhibit 4, which is 79:19 1.1946, and that's MCKMDL00496859.	GH07.37
79:20 - 80:20	**Hilliard, Gary 01-10-2019 (00:00:45)**	GH07.38

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79:20 There you go, sir.
79:21 (McKesson-Hilliard Exhibit 4
79:22 was marked for identification.)
79:23 QUESTIONS BY MR. BOGLE:
79:24 Q. Okay. And just to generally
79:25 orient ourselves here, Mr. Hilliard, you see
80:1 in Exhibit 4 we've got a memorandum from the
80:2 FDA -- I'm sorry, the DEA, Mr. Mapes at the
80:3 DEA to Mr. Rannazzisi at the DEA, and also
80:4 attached is some PowerPoint slides, right?
80:5 A. Yes, that's correct.
80:6 Q. Okay. And just looking here,
80:7 the subject of this memorandum says "Internet
80:8 Presentation with McKesson Corp. on
80:9 September 1, 2005."
80:10 Do you see that?
80:11 A. Yes, I see that.
80:12 Q. Okay. And then in the first
80:13 paragraph it notes who was present, and you
80:14 would agree with me that you're listed as one
80:15 of the people that was present for this
80:16 meeting, right?
80:17 A. I am listed.
80:18 Q. Okay. And you were present,
80:19 right?
80:20 A. That's correct.

81:19 - 82:21 **Hilliard, Gary 01-10-2019 (00:00:53)** GH07.39

81:19 Q. Okay. It says: After the
81:20 presentation, Mr. Mapes presented to
81:21 representatives of McKesson Corp. specific
81:22 customers of McKesson Corp., who have ordered
81:23 substantial quantities of hydrocodone
81:24 products. These specific customers of
81:25 McKesson Corp. were: And then it lists
82:1 United Prescription Services and Ninth Avenue
82:2 Pharmacy.
82:3 Do you see that?
82:4 A. Yes, I see that.
82:5 Q. And so as this letter
82:6 indicates, those were two pharmacies that

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	82:7 were called out and discussed during this 82:8 meeting, right? 82:9 A. Yes, that's correct. 82:10 Q. Okay. Then it continues: 82:11 Mr. Mapes finalized the presentation by 82:12 advising the representatives of McKesson 82:13 Corp. that they needed to thoroughly review 82:14 the materials which had been presented to 82:15 them and review in depth the purchasing 82:16 patterns and quantities of their customers. 82:17 Representatives of McKesson Corp. 82:18 acknowledged understanding of the material 82:19 presented. 82:20 Do you see that? 82:21 A. Yes, I see that.	
83:07 - 83:13	**Hilliard, Gary 01-10-2019 (00:00:17)** 83:7 Q. Okay. Do you recall leaving 83:8 this meeting personally feeling that you 83:9 didn't understand what was presented to you? 83:10 A. I recall getting a new 83:11 understanding for the trend of internet 83:12 pharmacies based on the presentation they 83:13 provided.	GH07.40
83:14 - 83:18	**Hilliard, Gary 01-10-2019 (00:00:10)** 83:14 Q. Okay. You said "new 83:15 understanding of the trend with internet 83:16 pharmacies." Is internet pharmacy something 83:17 that was on McKesson's radar from a 83:18 regulatory perspective prior to this meeting?	GH07.41
83:21 - 84:22	**Hilliard, Gary 01-10-2019 (00:01:01)** 83:21 A. Not that I recall. 83:22 QUESTIONS BY MR. BOGLE: 83:23 Q. Okay. I want to look at a 83:24 couple of slides in the presentation. So if 83:25 you go first to the third page of the 84:1 document, .3, you see there the first slide 84:2 is "Internet Pharmacy Data, Meeting with 84:3 McKesson Corporation, DEA Headquarters, 84:4 September 1, 2005." 84:5 Do you see that?	GH07.42

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	84:6 A. Yes, I see that. 84:7 Q. Okay. And then if you go to 84:8 page .4, there's a slide that says "Issues to 84:9 Consider." 84:10 Do you see where I'm at? 84:11 A. Yes, I do. 84:12 Q. Okay. The first bullet point 84:13 says "Frequency of Orders." The second 84:14 bullet point says "size of Orders." The 84:15 third bullet point says "Range of Products 84:16 Purchased." The fourth bullet point says 84:17 "Payment Method." The fifth says "Pharmacy 84:18 Location." The sixth says "% Controlled vs. 84:19 % Noncontrolled." And the last says 84:20 "Customer pick up at distributor." 84:21 Do you see that? 84:22 A. Yes, I see that.	
87:13 - 88:06	**Hilliard, Gary 01-10-2019 (00:00:46)** 87:13 Q. Okay. Well, let me ask you 87:14 this way: During 2005, McKesson certainly 87:15 could run a report showing what controlled 87:16 substances it had sold to a customer, right? 87:17 A. Correct. 87:18 Q. Track the transactions, right? 87:19 A. Correct. 87:20 Q. Okay. It could also run a 87:21 report showing the noncontrolled substances 87:22 it sold to any customer, right? 87:23 A. Correct. 87:24 Q. Okay. Because it tracked those 87:25 transactions as well, right? 88:1 A. Correct. 88:2 Q. Okay. In 2005, what mechanism 88:3 did McKesson utilize to evaluate the 88:4 frequency of the order -- controlled 88:5 substances orders to determine whether they 88:6 were suspicious?	GH07.43
88:09 - 88:15	**Hilliard, Gary 01-10-2019 (00:00:23)** 88:9 A. I don't recall how frequency 88:10 was determined.	GH07.44

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	88:11 QUESTIONS BY MR. BOGLE: 88:12 Q. Okay. Are you aware -- let's 88:13 just say from 1998 to 2007 -- of any reports 88:14 that were run examining frequency of orders 88:15 for controlled substances at McKesson?	
88:18 - 88:25	**Hilliard, Gary 01-10-2019 (00:00:28)** 88:18 A. The DU45 suspicious order 88:19 report ran nightly and monthly, provided to 88:20 the DEA. I don't recall that it had -- it 88:21 showed from day to day the transactions that 88:22 occurred, the sales that occurred. 88:23 As far as a "frequency" aspect 88:24 of it, I don't know how that would have 88:25 frequency to it, so I'm not sure.	GH07.45
89:02 - 89:09	**Hilliard, Gary 01-10-2019 (00:00:16)** 89:2 Q. Okay. Well, the DU45 report -- 89:3 and we'll talk about this a little more 89:4 later -- but the DU45 report was a volume 89:5 report meaning that a customer for a 89:6 controlled substance didn't appear on that 89:7 report until they ordered three times the 89:8 monthly average for that controlled 89:9 substance, right?	GH07.46
89:12 - 89:12	**Hilliard, Gary 01-10-2019 (00:00:01)** 89:12 A. That's correct.	GH07.47
89:13 - 89:16	**Hilliard, Gary 01-10-2019 (00:00:05)** 89:13 QUESTIONS BY MR. BOGLE: 89:14 Q. So that's more of a volume 89:15 report, right? When you reach a certain 89:16 volume, you get on that report.	GH07.48
89:20 - 89:20	**Hilliard, Gary 01-10-2019 (00:00:00)** 89:20 Q. True?	GH07.49
89:21 - 90:03	**Hilliard, Gary 01-10-2019 (00:00:20)** 89:21 A. Once you exceed a certain 89:22 threshold under the three-time factor, then 89:23 you'll show up on that report. 89:24 Q. Right. And so the DU45 89:25 specifically didn't have any mechanism to it 90:1 that pulled an order on to it as being on the 90:2 report strictly based on frequency alone, did	GH07.50

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	90:3 it?	
90:06 - 90:07	**Hilliard, Gary 01-10-2019 (00:00:03)**	GH07.51
	90:6 A. I don't recall a frequency 90:7 basis.	
91:01 - 91:05	**Hilliard, Gary 01-10-2019 (00:00:11)**	GH07.52
	91:1 Q. Okay. And you knew in 2005 91:2 that that was part of McKesson's obligations 91:3 were to report suspicious orders of 91:4 controlled substances when they were -- to 91:5 the DEA when they were discovered, right?	
91:08 - 91:11	**Hilliard, Gary 01-10-2019 (00:00:16)**	GH07.53
	91:8 A. We provided the suspicious 91:9 order reports to the DEA, again, nightly as 91:10 well as monthly, so that they had the report 91:11 for their review.	
92:04 - 92:08	**Hilliard, Gary 01-10-2019 (00:00:10)**	GH07.54
	92:4 Q. My question was simply: You 92:5 did have an understanding as of 2005 that 92:6 there was an obligation for McKesson to 92:7 report suspicious orders to the DEA when they 92:8 were discovered. True?	
92:12 - 92:14	**Hilliard, Gary 01-10-2019 (00:00:05)**	GH07.55
	92:12 A. We submitted the reports to the 92:13 DEA for the controlled substance suspicious 92:14 order reports.	
92:16 - 92:24	**Hilliard, Gary 01-10-2019 (00:00:28)**	GH07.56
	92:16 Q. Okay. And why would you do 92:17 that, then? 92:18 A. That was the agreed reporting 92:19 mechanism for the suspicious order that was 92:20 created from the Suspicious Order Task Force 92:21 that DEA had agreed was the methodology. 92:22 Q. What time period are you 92:23 referring to? 92:24 A. Approximately '95.	
95:24 - 96:13	**Hilliard, Gary 01-10-2019 (00:00:22)**	GH07.57
	95:24 Q. So let's go to page .10 then. 95:25 There's another slide on suspicious orders at 96:1 the top there. 96:2 Do you see that?	

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	96:3 A. I see that. 96:4 Q. That bullet point says: 96:5 Reporting a suspicious order to DEA does 96:6 NOT -- and "not" is in all caps -- relieve 96:7 the distributor of the responsibility to 96:8 maintain effective controls against 96:9 diversion. 96:10 Do you see that? 96:11 A. I see that. 96:12 Q. What did you understand that to 96:13 mean when that was presented to you in 2005?	
96:14 - 97:10	**Hilliard, Gary 01-10-2019 (00:01:07)** 96:14 A. We had other controls around 96:15 ensuring -- to prevent against diversion, and 96:16 so we had to ensure that we had other 96:17 controls, you know, that kept a controlled 96:18 substance within the legitimate registration. 96:19 Q. When you say "other controls," 96:20 you're talking about other controls other 96:21 than just reporting the suspicious order, 96:22 right? 96:23 A. Correct. 96:24 Q. Okay. What were those controls 96:25 in 2005? 97:1 A. We only serviced DEA-registered 97:2 facilities and also state-licensed 97:3 facilities. Some states required a 97:4 controlled substance license, so there was 97:5 license validation checks that would take 97:6 place. Also D&B creditworthiness aspects for 97:7 them. 97:8 We also had delivery systems 97:9 that -- couriers that delivered only to these 97:10 registered locations. We supplied ARCOS	**GH07.58**
97:11 - 97:20	**Hilliard, Gary 01-10-2019 (00:00:45)** 97:11 records to the DEA monthly on all of our 97:12 transactions so that DEA had that as well. 97:13 We reported loss and thefts, as required. 97:14 We had security vaults and 97:15 cages within our facilities to comply with	**GH07.59**

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	97:16 the security requirements for protecting the 97:17 controlled substances; numerous paperwork 97:18 requirements, including the 222 forms for the 97:19 transactions for Schedule IIs. There were 97:20 many different other controls.	
97:21 - 97:23	**Hilliard, Gary 01-10-2019 (00:00:04)** 97:21 Q. Those controls in 2005 would 97:22 not have included blocking orders as we 97:23 talked about before, right?	GH07.60
98:02 - 98:02	**Hilliard, Gary 01-10-2019 (00:00:01)** 98:2 Q. Blocking suspicious orders.	GH07.61
98:05 - 98:10	**Hilliard, Gary 01-10-2019 (00:00:08)** 98:5 A. Blocking suspicious orders took 98:6 place in the CSMP program. 98:7 QUESTIONS BY MR. BOGLE: 98:8 Q. Right. So in 2005, that would 98:9 not have been in place, right? 98:10 A. That was not in place in 2005.	GH07.62
98:11 - 98:17	**Hilliard, Gary 01-10-2019 (00:00:12)** 98:11 Q. All right. The second slide 98:12 here on that page, the second bullet point 98:13 says: Distributor must determine which 98:14 orders are suspicious and make a sales 98:15 decision. 98:16 Do you see that? 98:17 A. I see that.	GH07.63
98:18 - 98:24	**Hilliard, Gary 01-10-2019 (00:00:16)** 98:18 Q. Okay. Okay. Let's go to 98:19 page .14. You see there's a summary slide 98:20 there at the bottom, and the last bullet 98:21 point says: Not limited to Internet 98:22 pharmacies. 98:23 Do you see that? 98:24 A. Yes, I see that.	GH07.64
106:08 - 106:12	**Hilliard, Gary 01-10-2019 (00:00:11)** 106:8 During this presentation in 106:9 September 2005 that you were present for, was 106:10 there anything about that presentation that 106:11 you thought was unclear as far as what the 106:12 DEA was asking of you guys?	GH07.65

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106:15 - 106:15	**Hilliard, Gary 01-10-2019 (00:00:02)** 106:15 A. Not that I recall.	GH07.66
106:16 - 106:21	**Hilliard, Gary 01-10-2019 (00:00:09)** 106:16 QUESTIONS BY MR. BOGLE: 106:17 Q. Okay. But you do recall a 106:18 meeting just a couple months thereafter where 106:19 the DEA made pretty clear that they felt you 106:20 didn't take them very seriously in that 106:21 meeting, right?	GH07.67
106:24 - 107:02	**Hilliard, Gary 01-10-2019 (00:00:12)** 106:24 A. We did attend a meeting a 106:25 couple of months thereafter for which 107:1 Rannazzisi came in and wanted to do a 107:2 show-cause.	GH07.68
107:11 - 107:15	**Hilliard, Gary 01-10-2019 (00:00:12)** 107:11 Q. Okay. I'm going to hand you 107:12 what I'm marking as Exhibit 5, which is 107:13 1.1789, and that's MCKMDL00496876. 107:14 (McKesson-Hilliard Exhibit 5 107:15 was marked for identification.)	GH07.69
107:16 - 109:10	**Hilliard, Gary 01-10-2019 (00:01:33)** 107:16 QUESTIONS BY MR. BOGLE: 107:17 Q. Okay. Looking at Exhibit 5 107:18 here, this is another memorandum, the subject 107:19 being a Meeting Between the Office of 107:20 Diversion Control and McKesson Corp. on 107:21 January 3, 2006. 107:22 Do you see that? 107:23 A. Yes, I see that. 107:24 Q. Okay. And the second 107:25 paragraph, I'm not going to read off all the 108:1 attendees, but I just want to confirm you see 108:2 your name there as being one of the 108:3 attendees, right? 108:4 A. That's correct. 108:5 Q. And that's true, right, you 108:6 attended this meeting? 108:7 A. That is correct. 108:8 Q. Okay. And looking down on this 108:9 page about three-quarters of the way down,	GH07.70

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108:10 you see where it says, "Mr. Mapes opened"?
108:11 A. Yes, I do.
108:12 Q. It says: Mr. Mapes opened the
108:13 meeting by making introductions and covering
108:14 the background of previous meetings and
108:15 telephonic conversations between OD and
108:16 McKesson Corp. Specifically addressed were
108:17 the following:
108:18 And the first bullet says: A
108:19 meeting between McKesson Corp. and E-Commerce
108:20 Section was held September 1, 2005, at which
108:21 time McKesson Corp. was given a full detailed
108:22 briefing of the OD's Distributors Initiative
108:23 to address the Internet pharmacy problem.
108:24 Do you see that?
108:25 A. Yes, I see that.
109:1 Q. And that September 1 meeting in
109:2 2005 was the one we just were talking about,
109:3 right?
109:4 A. That's correct.
109:5 Q. Okay. The second-to-last
109:6 bullet point on this page said: Pharmacies
109:7 of particular concern were located in
109:8 Florida, Texas, and Colorado.
109:9 Do you see that?
109:10 A. Yes, I see that.

110:20 - 112:22	**Hilliard, Gary 01-10-2019 (00:01:45)**	GH07.71

110:20 The next bullet point actually
110:21 says: Specifically addressed concerns with
110:22 United Prescription Services, a current
110:23 customer of McKesson's.
110:24 Do you see that?
110:25 A. Yes, I see that.
111:1 Q. And we do know that was covered
111:2 in the September 1, 2005 meeting, right?
111:3 A. Agreed.
111:4 Q. Their concerns about that
111:5 pharmacy?
111:6 A. Agreed.
111:7 Q. Okay. It continues: On

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111:8 October 6, 2005, Mr. Mapes called Mr. Gilbert
111:9 to discuss comments the E-Commerce Section
111:10 had received that McKesson Corp. was not
111:11 taking the Internet pharmacy problem
111:12 seriously. Mr. Mapes was assured by
111:13 Mr. Gilbert that McKesson Corp. was taking
111:14 the matters seriously and working to change
111:15 their procedures.
111:16 Do you see that?
111:17 A. Yes, I see that.
111:18 Q. Who is Mr. Gilbert?
111:19 A. Outside counsel.
111:20 Q. So he's you guys' lawyer,
111:21 right?
111:22 A. Correct.
111:23 Q. Okay. And that's on October
111:24 5th.
111:25 And the next entry is on
112:1 October 10. It says: On October 10, 2005, a
112:2 DEA investigator from the Tampa District
112:3 Office contacted Bill Mahoney at the McKesson
112:4 Distribution Center in Lakeland, Florida, and
112:5 expressed concerns of hydrocodone sales to
112:6 United Prescription Services.
112:7 Do you see that?
112:8 A. I see that.
112:9 Q. Okay. Then the next entry
112:10 says: The E-Commerce Section retrieved ARCOS
112:11 data which revealed that between October 10
112:12 and October 21, 2005, the following alleged
112:13 Internet pharmacies received the identified
112:14 quantities of hydrocodone.
112:15 And then there's one, two,
112:16 three, four, five, six pharmacies listed,
112:17 right?
112:18 A. Yes, that's what's listed here.
112:19 Q. Okay. And for this 11-day
112:20 period, it's noted in this letter that United
112:21 Prescription Services received 252,100 dosage
112:22 units of hydrocodone from McKesson, right?

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112:25 - 113:06	**Hilliard, Gary 01-10-2019 (00:00:12)** 112:25 A. That's what's stated on the 113:1 document. 113:2 QUESTIONS BY MR. BOGLE: 113:3 Q. Okay. And that Universal Rx 113:4 received 254,700 dosage units during this 113:5 11-day period from McKesson of hydrocodone, 113:6 right? That's what the letter states.	GH07.72
113:09 - 113:15	**Hilliard, Gary 01-10-2019 (00:00:11)** 113:9 A. That's listed on this letter, 113:10 yes. 113:11 QUESTIONS BY MR. BOGLE: 113:12 Q. Okay. And that Bi-Wise 113:13 Pharmacy received 158,400 dosage units of 113:14 hydrocodone during this 11-day period, from 113:15 McKesson, right?	GH07.73
113:19 - 113:24	**Hilliard, Gary 01-10-2019 (00:00:11)** 113:19 Q. That's what the letter states. 113:20 A. That's what the letter states. 113:21 Q. The letter also states that 113:22 Avee Pharmacy received 220,200 dosage units 113:23 of hydrocodone from McKesson in this 11-day 113:24 period, right?	GH07.74
114:03 - 114:07	**Hilliard, Gary 01-10-2019 (00:00:11)** 114:3 Q. That's what the letter states. 114:4 A. That's what the letter states. 114:5 Q. The letter also states that 114:6 Medipharm Rx received 500,900 dosage units of 114:7 hydrocodone in 11 days from McKesson, right?	GH07.75
114:10 - 114:14	**Hilliard, Gary 01-10-2019 (00:00:11)** 114:10 A. That's what the letter states. 114:11 QUESTIONS BY MR. BOGLE: 114:12 Q. And finally, Accumed Pharmacy 114:13 received 404,400 dosage units of hydrocodone 114:14 from McKesson in 11 days, right?	GH07.76
114:17 - 115:09	**Hilliard, Gary 01-10-2019 (00:00:42)** 114:17 A. That's what the letter states. 114:18 QUESTIONS BY MR. BOGLE: 114:19 Q. It continues thereafter and 114:20 says: Mr. Rannazzisi then addressed the	GH07.77

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	114:21 representatives of McKesson Corp. and 114:22 informed them that it was his concerted 114:23 opinion based on the information presented, 114:24 the DEA needed to ask for the surrender of 114:25 McKesson's Lakeland Distribution Center 115:1 registration or DEA would pursue an Order to 115:2 Show Cause against the DEA registration of 115:3 the McKesson facility in Lakeland, Florida. 115:4 Do you see that? 115:5 A. Yes, I see that. 115:6 Q. So having a DEA registration 115:7 surrendered or having an Order to Show Cause 115:8 brought against a distribution center, those 115:9 are serious enforcement actions, right?	
115:12 - 117:06	**Hilliard, Gary 01-10-2019 (00:01:39)** 115:12 A. They are serious. 115:13 QUESTIONS BY MR. BOGLE: 115:14 Q. Okay. And in fact, the DEA did 115:15 file for an Order to Show Cause against 115:16 Lakeland after this point in time, right? 115:17 A. Yes, they did. 115:18 Q. Okay. Continuing on down in 115:19 this letter, I'm skipping that paragraph and 115:20 going to the next one that says, "Through the 115:21 course of the above." 115:22 Do you see that? 115:23 A. Yes, I see that. 115:24 Q. It says: Through the course of 115:25 the above discussion, McKesson Corp., by 116:1 their own admission, was unable to provide a 116:2 plausible explanation for the sale of over 116:3 2 million dosage units of hydrocodone in a 116:4 21-day period to pharmacies previously 116:5 identified by DEA to McKesson Corp. 116:6 Do you see that? 116:7 A. Yes, I see that. 116:8 Q. Okay. And then the last 116:9 paragraph on the bottom of this page 116:10 references you and says: After the 116:11 conclusion of this meeting, it was learned	**GH07.78**

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	116:12 from Gary Hilliard of McKesson Corp. that one 116:13 of the reasons they were not able to realize 116:14 the full volume of hydrocodone product going 116:15 out to the Florida pharmacies was that their 116:16 reports only included the name brand 116:17 hydrocodone products distributed and was 116:18 not -- and was leaving out the generic 116:19 products. It was only after realizing that 116:20 the generic were not being reported was 116:21 McKesson Corp. then able to see the large 116:22 quantities that DEA was bringing to 116:23 McKesson's attention. 116:24 Do you see that? 116:25 A. Yes, I see that. 117:1 Q. Okay. And you recall making 117:2 that statement to somebody at the DEA that 117:3 after the meeting, you recognized that the 117:4 reports you guys ran to track controlled 117:5 substances purchases like this weren't 117:6 picking up the generic products?	
117:09 - 117:09	**Hilliard, Gary 01-10-2019 (00:00:02)** 117:9 A. That's my recollection.	GH07.79
117:19 - 117:23	**Hilliard, Gary 01-10-2019 (00:00:11)** 117:19 Q. Okay. So was the report for 117:20 these pharmacies in Florida run any 117:21 differently than the reports for any other 117:22 pharmacies around the country in tracking 117:23 hydrocodone purchases?	GH07.80
118:01 - 118:01	**Hilliard, Gary 01-10-2019 (00:00:01)** 118:1 A. I don't recall.	GH07.81
118:03 - 118:04	**Hilliard, Gary 01-10-2019 (00:00:02)** 118:3 Q. You were responsible for the 118:4 reports at that time, right?	GH07.82
118:07 - 118:11	**Hilliard, Gary 01-10-2019 (00:00:17)** 118:7 A. No, I did not generate the 118:8 reports. Again, the DC manager would have 118:9 these reports and it would be utilized -- Don 118:10 Walker may have looked at them at that point 118:11 in time. I just don't really know.	GH07.83
122:05 - 122:06	**Hilliard, Gary 01-10-2019 (00:00:04)**	GH07.84

GH07-Hillliard, Gary - Plaintiffs' Submission

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	122:5 Q. I'm asking if you can make that 122:6 statement today, not whether you recall then.	
122:09 - 122:10	**Hilliard, Gary 01-10-2019 (00:00:01)** 122:9 Q. I don't think you're answering 122:10 my question.	GH07.283
122:12 - 122:18	**Hilliard, Gary 01-10-2019 (00:00:18)** 122:12 A. What I'm answering is, I don't 122:13 recall the reports, the detail of the report 122:14 or how the report was used. I recall that 122:15 there was an issue with the report that it 122:16 didn't contain all the SKU numbers, and 122:17 particularly for the generic items. And when 122:18 we identified that, we corrected it.	GH07.85
122:20 - 122:24	**Hilliard, Gary 01-10-2019 (00:00:13)** 122:20 Q. Okay. So can you provide any 122:21 specific reassurance that any reports 122:22 generated prior to the date when you did this 122:23 investigation in early 2006 did not suffer 122:24 from the same flaw?	GH07.86
123:03 - 123:03	**Hilliard, Gary 01-10-2019 (00:00:01)** 123:3 A. I don't recall.	GH07.87
123:05 - 123:07	**Hilliard, Gary 01-10-2019 (00:00:05)** 123:5 Q. Okay. So -- and if you could 123:6 provide such reassurance, you would, right? 123:7 A. That's correct.	GH07.88
129:07 - 129:10	**Hilliard, Gary 01-10-2019 (00:00:12)** 129:7 Q. Okay. Well, you do know that 129:8 you personally were listed as a potential 129:9 witness in this proceeding, right? 129:10 A. Yes, I was listed.	GH07.89
123:22 - 123:24	**Hilliard, Gary 01-10-2019 (00:00:12)** 123:22 Q. I'm handing you 123:23 what I'm marking as Exhibit 6, which is 123:24 1.1943, MCKMDL00496306.	GH07.90
124:03 - 124:09	**Hilliard, Gary 01-10-2019 (00:00:18)** 124:3 Q. Okay, Mr. Hilliard, just to 124:4 generally orient you here, this was produced 124:5 to us by McKesson in this litigation and is a 124:6 listing of all the pleadings for the Order to 124:7 Show Cause proceeding with Lakeland	GH07.91

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	124:8 Distribution Center. Okay?	
	124:9 A. Okay.	
130:18 - 130:22	**Hilliard, Gary 01-10-2019 (00:00:15)**	GH07.92
	130:18 Q. Okay. And then what follows	
	130:19 is, as McKesson's counsel filed it, the	
	130:20 proposed testimony for each of these	
	130:21 witnesses. So I want to look at the proposed	
	130:22 testimony for you, which starts on page 6364.	
130:23 - 131:02	**Hilliard, Gary 01-10-2019 (00:00:05)**	GH07.93
	130:23 You see there three-quarters of	
	130:24 the way down the page, it says "Proposed	
	130:25 Testimony of Gary Hilliard."	
	131:1 You see that?	
	131:2 A. I see that.	
133:08 - 133:09	**Hilliard, Gary 01-10-2019 (00:00:09)**	GH07.94
	133:8 Q. All right. So now let's go to	
	133:9 page 6370 in this document. It's still part	
133:10 - 133:19	**Hilliard, Gary 01-10-2019 (00:00:22)**	GH07.95
	133:10 of your testimony, proposed testimony.	
	133:11 The last paragraph reads:	
	133:12 Mr. Hilliard will testify that McKesson did	
	133:13 not immediately focus on Florida pharmacies	
	133:14 after the September 1, 2005 meeting because	
	133:15 it appeared from the data provided to	
	133:16 McKesson that Colorado was the immediate	
	133:17 problem.	
	133:18 Do you see that statement?	
	133:19 A. Yes, I see that.	
134:06 - 134:09	**Hilliard, Gary 01-10-2019 (00:00:10)**	GH07.96
	134:6 Q. Okay. So I'm asking, this	
	134:7 statement here that proposed testimony for	
	134:8 you at this hearing, is that accurate? Would	
	134:9 you have said that on the stand?	
134:12 - 134:17	**Hilliard, Gary 01-10-2019 (00:00:17)**	GH07.97
	134:12 A. I didn't prepare this or	
	134:13 have -- I don't recall having any	
	134:14 conversations with Mr. Gilbert or my superior	
	134:15 on this, so I don't recall having any	
	134:16 agreement that this is what I would have	
	134:17 stated on the stand.	

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135:03 - 135:08	**Hilliard, Gary 01-10-2019 (00:00:11)** 135:3 McKesson did not immediately focus on Florida 135:4 pharmacies after the September 1, 2005 135:5 meeting because it appeared from the data 135:6 provided to McKesson that Colorado was the 135:7 immediate problem? Is that a true statement 135:8 in your mind?	GH07.98
135:11 - 135:11	**Hilliard, Gary 01-10-2019 (00:00:02)** 135:11 A. I don't recall.	GH07.99
136:23 - 137:17	**Hilliard, Gary 01-10-2019 (00:00:36)** 136:23 Q. Let me ask you this: You can 136:24 read the statement now, right? 136:25 A. Correct. 137:1 Q. And you have read the statement 137:2 now, right? 137:3 A. Correct. 137:4 Q. Do you need more time to read 137:5 it now? 137:6 A. No. 137:7 Q. Okay. Is there anything about 137:8 this sentence that I read to you, which 137:9 states: Mr. Hilliard will testify that 137:10 McKesson did not immediately focus on Florida 137:11 pharmacies after the September 1, 2005 137:12 meeting because it appeared from the data 137:13 provided to McKesson that Colorado was the 137:14 immediate problem, that statement, anything 137:15 about that statement as you sit here today 137:16 that you're willing to stand up and say 137:17 that's not true?	GH07.100
137:20 - 138:03	**Hilliard, Gary 01-10-2019 (00:00:23)** 137:20 A. I don't recall enough about the 137:21 minute details of which steps we took at that 137:22 time to comment in depth on this. 137:23 QUESTIONS BY MR. BOGLE: 137:24 Q. Sir, you say "minute details." 137:25 I mean, this is more than 2 million doses of 138:1 hydrocodone in 11 days. Is that a minute 138:2 detail to you, whether you'd investigate that 138:3 promptly?	GH07.101

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138:07 - 138:09	**Hilliard, Gary 01-10-2019 (00:00:03)** 138:7 Q. I'm a little confused by that 138:8 statement, sir. Is that a minute detail to 138:9 you?	GH07.102
138:12 - 138:15	**Hilliard, Gary 01-10-2019 (00:00:13)** 138:12 A. So which -- the exact which 138:13 step was taken before the second step, I 138:14 don't have that recollection of what pharmacy 138:15 was looked at prior to another pharmacy.	GH07.103
162:20 - 163:10	**Hilliard, Gary 01-10-2019 (00:00:33)** 162:20 Q. All right, Mr. Hilliard, I want 162:21 to shift gears to a different topic here with 162:22 you. We talked a little bit earlier just 162:23 briefly about the DU45 report. 162:24 Do you recall that discussion 162:25 generally? 163:1 A. Yes. 163:2 Q. Okay. And also talked a little 163:3 bit about Section 55 generally. 163:4 Do you recall that discussion? 163:5 A. Yes. 163:6 Q. Okay. So Section 55 was the 163:7 standard operating procedure that was in 163:8 place when you joined McKesson that was meant 163:9 to be the Suspicious Order Monitoring Program 163:10 for the company. True?	GH07.104
163:13 - 164:01	**Hilliard, Gary 01-10-2019 (00:00:25)** 163:13 A. There was a section within 163:14 Section 55 that contained that type of 163:15 information. 163:16 QUESTIONS BY MR. BOGLE: 163:17 Q. Okay. So it was included 163:18 within Section 55. True? 163:19 A. Correct. 163:20 Q. Okay. I think you told me, I 163:21 just want to make sure I understand. When 163:22 you joined the company in 1997, Section 55, 163:23 and specifically the components with the 163:24 suspicious order monitoring provisions, were 163:25 already in place. True?	GH07.105

GH07-Hillliard, Gary - Plaintiffs' Submission

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	164:1 A. Correct.	
164:07 - 164:13	**Hilliard, Gary 01-10-2019 (00:00:18)**	GH07.284
	164:7 Q. Okay. I'll take a look at a 164:8 few components of Section 55 here. So I'm 164:9 going to hand you what I'm marking as 164:10 Exhibit 9, which is 1.1555. The Bates number 164:11 is MCKMDL00346554. 164:12 (McKesson-Hilliard Exhibit 9 164:13 was marked for identification.)	
165:17 - 166:08	**Hilliard, Gary 01-10-2019 (00:00:38)**	GH07.106
	165:17 Q. Okay. So this section here 165:18 talks about the daily version of the DU45 165:19 report. True? 165:20 A. Yes. 165:21 Q. Okay. And if you go down to 165:22 the next paragraph, it says: The same 165:23 factors that are used for the Customer Recap 165:24 Variance -- and then it gives a description 165:25 of the report -- are also used for the Daily 166:1 Controlled Substance Suspicious Order Warning 166:2 Report. 166:3 Then it says: 3X monthly 166:4 average for Schedule II and Schedule III 166:5 reportables and 8X/monthly averages for 166:6 IIIN-V. 166:7 Do you see that? 166:8 A. Yes, I see that.	
166:09 - 166:17	**Hilliard, Gary 01-10-2019 (00:00:26)**	GH07.107
	166:9 Q. Okay. So I want to break that 166:10 down and make sure it's clear on what that 166:11 means. So both for the DU45 reports run 166:12 daily and monthly, an order would appear on 166:13 the report for any controlled substance 166:14 that's in Schedule II or Schedule III if the 166:15 order was three times the average for 166:16 customers of McKesson for that product. 166:17 True?	
166:20 - 167:11	**Hilliard, Gary 01-10-2019 (00:00:42)**	GH07.108
	166:20 A. It was three times the monthly 166:21 average for 12-month sales and it was for	

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	166:22 Schedule II and III narcotics. 166:23 QUESTIONS BY MR. BOGLE: 166:24 Q. Okay. So included within that 166:25 would be opioids, right? 167:1 A. Correct. 167:2 Q. Okay. So you said a 12-month 167:3 history, so let's talk about how that worked. 167:4 Was it a 12-month same customer history that 167:5 this number would be derived from? 167:6 A. Yes, that's correct. 167:7 Q. Okay. So, for example, you 167:8 would look at the 12 months for X pharmacy, 167:9 the prior 12 months, and you would do what 167:10 with that data to determine how the three 167:11 times average would be generated?	
167:15 - 167:25	**Hilliard, Gary 01-10-2019 (00:00:31)** 167:15 Q. Walk me through that process. 167:16 A. The system is taking 12 months' 167:17 worth of sales history based on that item and 167:18 then adds a factor of three times, I'm sorry, 167:19 three times the average, and if the orders 167:20 exceed that threshold then it shows up on the 167:21 report. 167:22 Q. Okay. And so an average is 167:23 generated from the prior 12 months. Does 167:24 that roll over every month so it's looking at 167:25 a new 12-month period?	GH07.109
168:03 - 168:18	**Hilliard, Gary 01-10-2019 (00:00:33)** 168:3 A. As I recall, it's a rolling 168:4 12-month period. 168:5 QUESTIONS BY MR. BOGLE: 168:6 Q. Right. So we'll walk through 168:7 this just to make sure it's clear. So let's 168:8 say, for example, we're in February 2007. 168:9 The prior 12 months' data that would be 168:10 looked at for February 2007 would be the 12 168:11 months prior to that month. True? 168:12 A. Correct. 168:13 Q. Okay. So, for example, when 168:14 you go to March 2007, that would then include	GH07.110

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	168:15 the February 2007 data and the first month 168:16 from the prior 12 months would drop off the 168:17 analysis. True? 168:18 A. I believe that to be correct.	
168:19 - 169:04	**Hilliard, Gary 01-10-2019 (00:00:27)** 168:19 Q. Okay. So if a customer's 168:20 orders for a given month did not exceed three 168:21 times their prior 12-month average, they 168:22 would not appear on the DU45 report. True? 168:23 A. That's correct. 168:24 Q. Okay. Were there any other 168:25 calculations that went into the DU45 report 169:1 other than the prior 12 months' average and 169:2 looking at three times that average, if it 169:3 hits that, it gets kicked to the report? Any 169:4 other variables?	GH07.111
169:07 - 169:07	**Hilliard, Gary 01-10-2019 (00:00:02)** 169:7 A. Not to my knowledge.	GH07.112
169:08 - 169:13	**Hilliard, Gary 01-10-2019 (00:00:12)** 169:8 QUESTIONS BY MR. BOGLE: 169:9 Q. Okay. All right. I want to 169:10 look at a DU45 report that was produced to 169:11 us. You may want to keep this exhibit kind 169:12 of just near you, but I want to look at a 169:13 sample DU45 with you.	GH07.113
169:14 - 169:16	**Hilliard, Gary 01-10-2019 (00:00:13)** 169:14 All right. I'm going to hand 169:15 you what I'm marking as Exhibit 10, which is 169:16 1.2100. Bates number is MCKMDL00660789.	GH07.114
169:23 - 171:02	**Hilliard, Gary 01-10-2019 (00:01:16)** 169:23 Okay. And what I've handed 169:24 you, Mr. Hilliard, I'll represent to you was 169:25 produced to us as part of this litigation as 170:1 being a DU45 report from -- I believe it's 170:2 the Oklahoma City distribution center. I 170:3 think you can determine that on the second 170:4 page of the document, that that's the 170:5 distribution center this pertains to. Let me 170:6 know if you disagree with that. 170:7 A. Yes. This does appear to come	GH07.115

Page/Line	Source	ID
	170:8 from the Oklahoma City distribution center. 170:9 Q. Okay. And going back to the 170:10 first page, this is noted to be a monthly 170:11 report that I'm showing you here, right? 170:12 A. That is correct. 170:13 Q. Okay. And it's dated 170:14 April 3rd, 2007. That's the date on the 170:15 first page, right? 170:16 A. That's what's stated on the 170:17 first page. 170:18 Q. Okay. So you obviously have an 170:19 understanding and knowledge of DU45 reports. 170:20 Is what I'm showing you here consistent with 170:21 what a DU45 report would look like, a monthly 170:22 report? 170:23 A. Yes. 170:24 Q. Okay. Now, these would -- so 170:25 this would be submitted to the DEA on a 171:1 monthly basis, correct? This version. 171:2 A. That's correct.	
171:06 - 171:10	**Hilliard, Gary 01-10-2019 (00:00:21)** 171:6 Q. And just looking, for example, 171:7 at a few of these pages, I'm looking at the 171:8 second page, which is Bates ending 0790, 171:9 there's three fentanyl orders listed here for 171:10 this customer, right?	**GH07.116**
171:13 - 171:16	**Hilliard, Gary 01-10-2019 (00:00:05)** 171:13 A. Fentanyl is listed here, yes. 171:14 QUESTIONS BY MR. BOGLE: 171:15 Q. Okay. Fentanyl being an opioid 171:16 product, right?	**GH07.117**
171:19 - 172:08	**Hilliard, Gary 01-10-2019 (00:00:39)** 171:19 A. Yes, it is. 171:20 QUESTIONS BY MR. BOGLE: 171:21 Q. Okay. And go to the next page, 171:22 for example, there's an order listed for this 171:23 customer for oxycodone, an oxycodone 171:24 combination product, right? 171:25 A. That's what's stated, yes. 172:1 Q. Okay. Again, another opioid,	**GH07.118**

Page/Line	Source	ID
	172:2 right?	
	172:3 A. Yes, that's correct.	
	172:4 Q. Okay. If you flip over to the	
	172:5 next page, Bates page ending 0792, there are	
	172:6 what I count to be 11 separate orders here	
	172:7 for this customer, again, all for various	
	172:8 opioid products, right?	
172:11 - 173:01	**Hilliard, Gary 01-10-2019 (00:00:50)**	GH07.119
	172:11 A. That is what's listed here.	
	172:12 QUESTIONS BY MR. BOGLE:	
	172:13 Q. Okay. And I'm not going	
	172:14 through every page here, but just one more	
	172:15 just to show you.	
	172:16 Page 0793, for this customer,	
	172:17 there are -- looks like nine different orders	
	172:18 for either hydrocodone or oxycodone listed	
	172:19 here, right?	
	172:20 A. That is what's listed.	
	172:21 Q. Okay. And so what's listed in	
	172:22 this report, for example, at this time	
	172:23 period, April 2007, would have been orders	
	172:24 that were placed by a customer, filled by	
	172:25 McKesson, and then appeared on this report	
	173:1 thereafter and sent to the DEA, right?	
173:04 - 173:10	**Hilliard, Gary 01-10-2019 (00:00:07)**	GH07.120
	173:4 A. That would have been the	
	173:5 process.	
	173:6 QUESTIONS BY MR. BOGLE:	
	173:7 Q. Right. Because these are all	
	173:8 sales. This product was provided to the	
	173:9 customers, right? Everything listed in this	
	173:10 report.	
173:13 - 173:17	**Hilliard, Gary 01-10-2019 (00:00:08)**	GH07.121
	173:13 A. That is my recollection.	
	173:14 QUESTIONS BY MR. BOGLE:	
	173:15 Q. Right. So the DU45 report is	
	173:16 listing sales, not just the order prior to	
	173:17 the sale, right?	
173:20 - 173:21	**Hilliard, Gary 01-10-2019 (00:00:03)**	GH07.122
	173:20 A. My recollection is it contains	

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	173:21 the sales.	
174:24 - 175:04	**Hilliard, Gary 01-10-2019 (00:00:14)** 174:24 Q. But what the whole 174:25 purpose of this was, you're providing 600 -- 175:1 in this instance, 600-plus pages to the DEA 175:2 for this month of suspicious controlled 175:3 substance sales that McKesson had made from 175:4 the prior month, right?	GH07.123
175:07 - 175:10	**Hilliard, Gary 01-10-2019 (00:00:12)** 175:7 A. They were submitted for DEA to 175:8 review. The report is titled "suspicious" 175:9 but it's orders that need to be reviewed and 175:10 they were supplied to DEA for review.	GH07.124
175:12 - 175:18	**Hilliard, Gary 01-10-2019 (00:00:15)** 175:12 Q. Okay. So let me make sure I 175:13 understand that. So when these reports would 175:14 have been submitted to the DEA, it was not 175:15 the intent of the regulatory department for 175:16 the conclusion to be drawn that McKesson 175:17 believed these were suspicious orders. Is 175:18 that true?	GH07.125
175:21 - 176:04	**Hilliard, Gary 01-10-2019 (00:00:29)** 175:21 A. This was part of the Suspicious 175:22 Order Task Force. This was the format for 175:23 which industry came to the conclusion to 175:24 provide this information to the DEA and DEA 175:25 was good with it. There was DEA inspections 176:1 that had occurred in our facilities and there 176:2 was never an issue with that. So this is the 176:3 format for which the original documentation 176:4 was supplied to DEA.	GH07.126
176:08 - 176:16	**Hilliard, Gary 01-10-2019 (00:00:21)** 176:8 Q. My question was simply that 176:9 during the time that you were with McKesson 176:10 in the regulatory department, was it your 176:11 understanding that the intent was when a DU45 176:12 report like the one we're looking at here was 176:13 supplied to the DEA, was that -- was that 176:14 intended to or not intended to be what 176:15 McKesson deemed to be suspicious orders from	GH07.127

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	176:16 the prior month?	
176:20 - 176:22	**Hilliard, Gary 01-10-2019 (00:00:08)**	GH07.128
	176:20 A. Yeah. Again, it was -- this is 176:21 what needed to be reviewed. This was not 176:22 specifically a suspicious order.	
178:20 - 178:25	**Hilliard, Gary 01-10-2019 (00:00:16)**	GH07.129
	178:20 Q. Okay. And so what's noted in a 178:21 report like the one we're looking at here at 178:22 Exhibit 10, was any sort of further 178:23 investigation done by McKesson to determine 178:24 if the orders were truly suspicious versus 178:25 just meeting this algorithm?	
179:03 - 179:11	**Hilliard, Gary 01-10-2019 (00:00:24)**	GH07.130
	179:3 A. There was a due diligence 179:4 process, so nightly a supervisor would review 179:5 the nightly report. If they identified a 179:6 particular order, then it would be reviewed. 179:7 The customer would be contacted, ask them if 179:8 they, you know, made a mistake in this order, 179:9 did they intend to place this order. So 179:10 additional due diligence could be followed 179:11 up.	
180:17 - 180:21	**Hilliard, Gary 01-10-2019 (00:00:11)**	GH07.131
	180:17 Q. Would -- during the time the 180:18 DU45s were utilized, was there a separate 180:19 reporting process for true suspicious orders 180:20 that were identified outside of just this 180:21 meeting this algorithm in the DU45?	
180:25 - 181:03	**Hilliard, Gary 01-10-2019 (00:00:10)**	GH07.132
	180:25 A. If the DCM -- if something was 181:1 identified and DCM felt that there was an 181:2 issue with it, then they would contact their 181:3 local DEA office.	
181:05 - 181:07	**Hilliard, Gary 01-10-2019 (00:00:06)**	GH07.133
	181:5 Q. Okay. 181:6 A. And there was a notification 181:7 log that they would fill out.	
182:21 - 183:02	**Hilliard, Gary 01-10-2019 (00:00:20)**	GH07.134
	182:21 Q. Okay. And again, we're looking 182:22 at a report here from 2007. You're aware	

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	182:23 that in that same year, in 2007, the DEA made 182:24 clear that the DU45 reports, in their view, 182:25 were not sufficient to satisfy suspicious 183:1 order monitoring and reporting requirements, 183:2 right?	
183:06 - 183:16	**Hilliard, Gary 01-10-2019 (00:00:34)** 183:6 A. There were comments -- there 183:7 were times where the DEA would tell us to 183:8 stop faxing the reports. They were 183:9 frustrated with the frequency and size of the 183:10 reports that would come in and asked us to 183:11 stop clogging up the fax machines, and since 183:12 it was part of the SOP which was based off 183:13 the original Suspicious Order Task Force 183:14 agreement, we would have to try to get 183:15 something in writing or document something in 183:16 order to stop those fax communications.	GH07.135
183:18 - 184:01	**Hilliard, Gary 01-10-2019 (00:00:19)** 183:18 Q. So when you received 183:19 communications from the DEA that these were, 183:20 I guess, basically too large and clogging up 183:21 the fax machines, was there any response from 183:22 anybody at regulatory at McKesson saying, 183:23 "Hey, we can filter this down to something 183:24 smaller to make it easier for you to review, 183:25 do some more due diligence before we dump 184:1 this on you"?	GH07.136
184:04 - 184:09	**Hilliard, Gary 01-10-2019 (00:00:15)** 184:4 A. The nightly review or if 184:5 something came up on the nightly reviews, 184:6 then those would still be faxed if there was 184:7 a concern with an order. Those would be 184:8 addressed with the DEA and typically a DCM 184:9 would contact DEA to discuss that.	GH07.137
184:11 - 184:18	**Hilliard, Gary 01-10-2019 (00:00:16)** 184:11 Q. Yeah, but I guess what I'm 184:12 asking is different than that. So do you 184:13 recall at any point in time anyone at the 184:14 regulatory department at McKesson, when they 184:15 received that sort of feedback from DEA,	GH07.138

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	184:16 saying, "We can filter this down to what we 184:17 truly feel is suspicious rather than just 184:18 giving you something based on an algorithm"?	
184:22 - 185:11	**Hilliard, Gary 01-10-2019 (00:00:34)** 184:22 A. Again, it was filtered down by 184:23 providing the notations on the reports that 184:24 would be reviewed on the daily reports so 184:25 that they weren't getting this large volume; 185:1 they were getting, you know, an isolated 185:2 customer that needed -- that was identified 185:3 that needed further review. So that reduced 185:4 the submissions. They still did, of course, 185:5 get the monthly file at the end of the month. 185:6 QUESTIONS BY MR. BOGLE: 185:7 Q. Okay. And so, again, to the 185:8 extent that that was done, that the orders 185:9 were individually flagged as suspicious 185:10 orders during this time frame, that would 185:11 have been documented, right?	GH07.139
185:14 - 185:15	**Hilliard, Gary 01-10-2019 (00:00:02)** 185:14 QUESTIONS BY MR. BOGLE: 185:15 Q. That wasn't done verbally.	GH07.140
185:18 - 185:25	**Hilliard, Gary 01-10-2019 (00:00:11)** 185:18 QUESTIONS BY MR. BOGLE: 185:19 Q. Was it? 185:20 A. I don't recall. It could have 185:21 been done both. 185:22 Q. Okay. But there was a 185:23 requirement specifically to document anything 185:24 that you deem a suspicious order report when 185:25 you sent it to the DEA, right?	GH07.141
186:03 - 186:05	**Hilliard, Gary 01-10-2019 (00:00:08)** 186:3 A. I don't know what each of them 186:4 did after they conducted that report to the 186:5 DEA. I don't know what they kept on file.	GH07.142
187:17 - 187:20	**Hilliard, Gary 01-10-2019 (00:00:15)** 187:17 Q. I'm going to hand you what I'm 187:18 marking as Exhibit 1.1823, which is 187:19 Exhibit 11 to your deposition, and that's 187:20 MCKMDL00574906. And this is titled Summary	GH07.143

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187:21 - 187:22	**Hilliard, Gary 01-10-2019 (00:00:10)** 187:21 of DEA-HDMA Meeting on Suspicious Orders, 187:22 Meeting Date: September 7, 2007.	GH07.144
188:20 - 188:21	**Hilliard, Gary 01-10-2019 (00:00:04)** 188:20 Q. Okay. And if you go to the 188:21 second page of this document, the top bullet	GH07.145
188:22 - 189:15	**Hilliard, Gary 01-10-2019 (00:00:46)** 188:22 point says: DEA also does not want to 188:23 receive suspicious order reports that merely 188:24 reflect volumes that went over a threshold; 188:25 they wanted reports that are "true" 189:1 suspicious orders. Similarly, they do not 189:2 want to receive what they called "excessive 189:3 purchase" reports which had been used in the 189:4 past. 189:5 Do you see that? 189:6 A. I see that. 189:7 Q. Okay. And were you aware of 189:8 this discussion that went on with your trade 189:9 association and DEA in September 2007? 189:10 A. I recall that there was a 189:11 meeting. 189:12 Q. Okay. And so this information 189:13 I just read to you about the DEA's 189:14 expectations, that would have been conveyed 189:15 to you and your regulatory team, right?	GH07.146
189:18 - 189:19	**Hilliard, Gary 01-10-2019 (00:00:05)** 189:18 A. I don't recall specifically 189:19 receiving it, but it is likely that I did.	GH07.147
189:25 - 190:04	**Hilliard, Gary 01-10-2019 (00:00:10)** 189:25 And so what they're referencing 190:1 there, that they don't want to receive 190:2 suspicious order reports that merely reflect 190:3 volumes that went over a threshold, that's 190:4 what a DU45 report is, right?	GH07.148
190:08 - 190:12	**Hilliard, Gary 01-10-2019 (00:00:15)** 190:8 A. It could be considered that, 190:9 but I don't know what all the other members 190:10 were considering their reports to be referred 190:11 to as excessive purchase or what have you as	GH07.149

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	190:12 well. So it's a generalization.	
190:14 - 190:21	**Hilliard, Gary 01-10-2019 (00:00:15)** 190:14 Q. Yeah. I guess what I'm -- I'm 190:15 not asking you to speak for other 190:16 distributors. I don't think that's within 190:17 your purview and I'm not asking you that. 190:18 I'm asking you about McKesson. 190:19 So the description that I just 190:20 read for you from this bullet point would be 190:21 consistent with the DU45 report, right?	GH07.150
190:25 - 190:25	**Hilliard, Gary 01-10-2019 (00:00:01)** 190:25 A. I'm not sure.	GH07.151
191:02 - 191:07	**Hilliard, Gary 01-10-2019 (00:00:14)** 191:2 Q. Okay. Well, when you received 191:3 this information from your trade association 191:4 from this meeting with the DEA, did the 191:5 regulatory team at McKesson take this to mean 191:6 that the DU45 was not good enough to show 191:7 suspicious order reporting?	GH07.152
191:11 - 191:19	**Hilliard, Gary 01-10-2019 (00:00:31)** 191:11 A. I don't recall exactly what was 191:12 discussed with the regulatory department at 191:13 that time. We were in the processes to 191:14 develop new programs, LDMP, in 2007, which 191:15 was conducted in addition to the DU45. 191:16 So the DU45, I don't remember 191:17 when it stopped being completely submitted, 191:18 but it was still being submitted and then we 191:19 were developing additional programs.	GH07.153
193:11 - 193:16	**Hilliard, Gary 01-10-2019 (00:00:14)** 193:11 Q. Okay. So you don't have an 193:12 opinion one way or the other whether the 193:13 bullet point we read would indicate to you 193:14 today that the DU45 like we just looked at is 193:15 not going to be sufficient to report 193:16 suspicious orders? Is that your testimony?	GH07.154
193:19 - 193:21	**Hilliard, Gary 01-10-2019 (00:00:07)** 193:19 A. We enhanced what we were 193:20 providing by developing new programs. We 193:21 continued to supply this in addition.	GH07.155

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194:01 - 194:08	**Hilliard, Gary 01-10-2019 (00:00:19)** 194:1 What I'm asking you right now 194:2 is about the DU45. As you sit here reading 194:3 this today, having worked as a director of 194:4 regulatory affairs for 20 years and just 194:5 concluded that practice two years ago, do you 194:6 read this as you sit here today as being a 194:7 clear indication that the DU45 report was not 194:8 sufficient to report suspicious orders?	GH07.156
194:12 - 194:12	**Hilliard, Gary 01-10-2019 (00:00:02)** 194:12 A. I don't know.	GH07.157
194:16 - 194:21	**Hilliard, Gary 01-10-2019 (00:00:15)** 194:16 You've been involved in e-mail 194:17 discussions while you were at McKesson where 194:18 conclusions by other members of the 194:19 regulatory team that you were involved in 194:20 were that the DU45 was not a suspicious order 194:21 report, right?	GH07.158
195:20 - 195:21	**Hilliard, Gary 01-10-2019 (00:00:04)** 195:20 Q. So let's start back at the 195:21 first e-mail, page .6. All right. So the	GH07.159
194:25 - 195:05	**Hilliard, Gary 01-10-2019 (00:00:17)** 194:25 Q. Do you recall those 195:1 discussions? 195:2 A. I don't recall offhand. 195:3 Q. Okay. I'll hand you what I'm 195:4 marking as Exhibit 12, which is 1.1667, and 195:5 that's MCKMDL00510747.	GH07.160
195:22 - 198:23	**Hilliard, Gary 01-10-2019 (00:03:03)** 195:22 bottom e-mail there is from a Tyra Williams 195:23 to a Craig Vanderburg, subject: Variance and 195:24 Suspicious Reports, dated December 16, 2010. 195:25 Do you see that? 196:1 A. I see that. 196:2 Q. And the statement there is: 196:3 Craig, please do not forget that these 196:4 reports must be sent to the State. We have 196:5 not sent the reports for the last 6 months. 196:6 Do you see that reference? 196:7 A. I see that.	GH07.161

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196:8 Q. Craig Vanderburg, would he have
196:9 been a distribution center manager at this
196:10 time?
196:11 A. That's my recollection.
196:12 Q. All right. So let's now flip
196:13 over to page .5. I'm looking at the e-mail
196:14 at the top there from Tom McDonald,
196:15 December 16, 2010, same title. Mr. McDonald,
196:16 he was in the regulatory department at that
196:17 time, right?
196:18 A. Yes, he was.
196:19 Q. He was another director of
196:20 regulatory affairs, right?
196:21 A. Yes, he was.
196:22 Q. Okay. He says there: I don't
196:23 believe you have identified a suspicious
196:24 order or customer within the last six months,
196:25 have you? It is still part of our process to
197:1 report all suspicious orders to the DEA and
197:2 to the state board when they are discovered.
197:3 Our current process better identifies
197:4 suspicious orders rather than orders of
197:5 interest. One man's opinion.
197:6 Do you see that?
197:7 A. Yes, I see that.
197:8 Q. Okay. And then finally, going
197:9 to the e-mail back on the first page by Dave
197:10 Gustin -- now, Dave Gustin is another
197:11 director of regulatory affairs at the time
197:12 the e-mail is sent, February 4, 2011, right?
197:13 A. That is correct.
197:14 Q. Okay. And as we talked about a
197:15 minute ago, you're involved in the e-mail
197:16 chain at this point as being copied, right?
197:17 A. That's correct.
197:18 Q. Okay. Here, in the second
197:19 paragraph, he says: It is my opinion that
197:20 the previous reports were not the exclusive
197:21 and proper response to this regulation.
197:22 And if you look above, the

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	197:23 regulation he's citing to is the one about --	
	197:24 from the Controlled Substances Act about	
	197:25 reporting suspicious orders, right?	
	198:1 A. That's what's listed, yes.	
	198:2 Q. Okay. Then he says: We have	
	198:3 an obligation to report "suspicious orders."	
	198:4 With no clear definition of what constitutes	
	198:5 a suspicious order we must rely on our own	
	198:6 judgment as to what it is. If we report	
	198:7 anything we believe to be truly suspicious we	
	198:8 will be meeting the spirit and letter of the	
	198:9 regulation. Simply reporting	
	198:10 larger-than-usual orders does not when there	
	198:11 are so many plausible and routine reasons for	
	198:12 orders to be "larger than normal."	
	198:13 And then he lists some reasons.	
	198:14 I would wait until someone	
	198:15 misses the report before seeking someone out	
	198:16 to give them something that I do not agree	
	198:17 meets their needs or requirements.	
	198:18 Do you see that?	
	198:19 A. Yes, I see that.	
	198:20 Q. And a report that simply	
	198:21 orders -- reports orders that are larger than	
	198:22 usual, that's exactly what the DU45 report	
	198:23 is, right?	
199:01 - 199:03	**Hilliard, Gary 01-10-2019 (00:00:05)**	GH07.162
	199:1 A. They're orders that exceed the	
	199:2 threshold based on the parameters of that	
	199:3 report.	
202:02 - 202:06	**Hilliard, Gary 01-10-2019 (00:00:16)**	GH07.163
	202:2 Q. So do you agree or	
	202:3 disagree that simply reporting	
	202:4 larger-than-usual orders does not meet the	
	202:5 suspicious order reporting requirements of	
	202:6 the Controlled Substances Act?	
202:10 - 202:19	**Hilliard, Gary 01-10-2019 (00:00:34)**	GH07.164
	202:10 A. We were providing information	
	202:11 based on what we believed complied with the	
	202:12 CSA and what came out of the Suspicious Order	

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	202:13 Task Force, and other additional information 202:14 is provided to the DEA to supplement that, 202:15 such as the notations on the report nightly. 202:16 So there is more that goes 202:17 along with that than just this one report 202:18 that has higher-than-threshold levels of 202:19 transactions listed on it.	
205:04 - 205:07	**Hilliard, Gary 01-10-2019 (00:00:10)** 205:4 Q. Okay. So the DU45 by itself, 205:5 would you agree, was not sufficient to 205:6 satisfy the suspicious order reporting 205:7 requirements of the CSA?	**GH07.165**
205:12 - 205:18	**Hilliard, Gary 01-10-2019 (00:00:17)** 205:12 A. We provided the information for 205:13 the DU45 based on the Suspicious Order Task 205:14 Force that we believe complied with the CSA. 205:15 We supplemented that with additional 205:16 information that would give better 205:17 information to the DEA through these reports 205:18 and additional reporting tools.	**GH07.166**
205:22 - 206:03	**Hilliard, Gary 01-10-2019 (00:00:10)** 205:22 Q. Okay. Let me ask it a 205:23 different way. You've read the six pages of 205:24 e-mails, correct? 205:25 A. That's correct. 206:1 Q. Okay. And you know that they 206:2 were specifically talking about the DU45 206:3 report, right?	**GH07.167**
206:07 - 206:08	**Hilliard, Gary 01-10-2019 (00:00:02)** 206:7 Q. It's referenced by name, isn't 206:8 it?	**GH07.168**
206:11 - 207:01	**Hilliard, Gary 01-10-2019 (00:00:38)** 206:11 A. I believe it was stated in the 206:12 e-mail trail. 206:13 QUESTIONS BY MR. BOGLE: 206:14 Q. All right. So now that you 206:15 have a chance to review the full context of 206:16 this entire e-mail chain, do you agree or 206:17 disagree with Mr. Gustin's following 206:18 statement: Simply reporting	**GH07.169**

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	206:19 larger-than-usual orders does not, when there 206:20 are so many plausible and routine reasons for 206:21 orders to be larger than normal -- and "does 206:22 not," he's referring to meeting the spirit 206:23 and letter of the regulation for reporting 206:24 suspicious orders. 206:25 Agree or disagree or no opinion 207:1 on Mr. Gustin's statement there?	
207:04 - 207:05	**Hilliard, Gary 01-10-2019 (00:00:04)** 207:4 A. I don't have an opinion on 207:5 his -- on his statement.	GH07.170
207:19 - 207:21	**Hilliard, Gary 01-10-2019 (00:00:04)** 207:19 Do you have a specific 207:20 recollection of disagreeing with his e-mail 207:21 in writing?	GH07.171
207:24 - 208:01	**Hilliard, Gary 01-10-2019 (00:00:07)** 207:24 A. I do not have a recollection of 207:25 reviewing this e-mail or making a response to 208:1 the e-mail.	GH07.172
208:16 - 209:02	**Hilliard, Gary 01-10-2019 (00:00:34)** 208:16 Q. All right, Mr. Hilliard. Just 208:17 to reorient ourselves here, earlier in the 208:18 deposition, you recall discussing with me the 208:19 DEA's investigation of the Lakeland 208:20 distribution center regarding distribution of 208:21 hydrocodone to seven Florida pharmacies? 208:22 A. That's correct. 208:23 Q. Okay. And you're aware after 208:24 that investigation, the DEA also began 208:25 investigating some other distribution centers 209:1 within McKesson as to their distribution of 209:2 opioids?	GH07.173
209:05 - 209:11	**Hilliard, Gary 01-10-2019 (00:00:12)** 209:5 A. Yes. There was additional 209:6 investigations. 209:7 QUESTIONS BY MR. BOGLE: 209:8 Q. Okay. And ultimately those 209:9 investigations culminated in McKesson 209:10 entering into a settlement agreement with the 209:11 DEA in 2008, right?	GH07.174

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212:23 - 212:25	**Hilliard, Gary 01-10-2019 (00:00:06)** 212:23 Q. Then if you see in 212:24 section B, and I wasn't going to read this 212:25 whole section but you can look at it here for	GH07.175
213:01 - 213:10	**Hilliard, Gary 01-10-2019 (00:00:23)** 213:1 yourself, this talks about the conduct that 213:2 we actually covered for the seven 213:3 pharmacies -- seven Florida pharmacies that 213:4 were handled by the Lakeland distribution 213:5 center, right? 213:6 A. Yes. It's listed here. 213:7 Q. And that's the same conduct we 213:8 talked about before, right? That's what they 213:9 discuss here. 213:10 A. Yes.	GH07.176
209:14 - 210:08	**Hilliard, Gary 01-10-2019 (00:00:45)** 209:14 A. There was a settlement 209:15 agreement in 2008. 209:16 QUESTIONS BY MR. BOGLE: 209:17 Q. Okay. And you're aware that 209:18 occurred, right? That a settlement occurred 209:19 in 2008? 209:20 A. Yes, I am. 209:21 Q. Okay. And you're aware that 209:22 settlement pertained to allegations from the 209:23 DEA that McKesson violated the Controlled 209:24 Substances Act in distributing opioids from 209:25 several of its distribution centers, right? 210:1 A. Correct. 210:2 Q. Okay. Have you seen the 210:3 settlement agreement itself? 210:4 A. I have seen it at one time. 210:5 Q. Okay. All right. I'm going to 210:6 hand you what I'm marking as Exhibit 13, 210:7 which is also 1.889, and that's 210:8 MCKMDL00337001.	GH07.177
210:12 - 210:12	**Hilliard, Gary 01-10-2019 (00:00:03)** 210:12 Q. Here you go, sir.	GH07.178
215:01 - 215:06	**Hilliard, Gary 01-10-2019 (00:00:19)** 215:1 Q. Okay. And as a result of these	GH07.179

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	215:2 investigations by DEA in 2005 and 2006, in 215:3 addition to entering the settlement 215:4 agreement, McKesson modified its Suspicious 215:5 Order Monitoring Program to shift to the 215:6 Lifestyle Drug Monitoring Program, right?	
210:13 - 210:23	**Hilliard, Gary 01-10-2019 (00:00:24)** 210:13 Okay. What I've just handed 210:14 you, Mr. Hilliard, as Exhibit 13 is titled at 210:15 the top Settlement and Release Agreement and 210:16 Administrative Memorandum Agreement dated in 210:17 the first paragraph May 2nd, 2008. 210:18 Do you see that? 210:19 A. Yes, I see that. 210:20 Q. Okay. And do you recognize 210:21 this to be the settlement agreement we just 210:22 referenced from 2008? 210:23 A. Yes.	GH07.180
215:09 - 215:10	**Hilliard, Gary 01-10-2019 (00:00:09)** 215:9 A. The Lifestyle Drug Monitoring 215:10 Program was developed in the 2007 time frame.	GH07.181
215:18 - 215:22	**Hilliard, Gary 01-10-2019 (00:00:19)** 215:18 All right. So I'm going to 215:19 hand you what I'm marking as Exhibit 1.1830, 215:20 which is Exhibit 14 to your deposition, and 215:21 that is, for those keeping track of these 215:22 things, MCKMDL00403340.	GH07.182
216:02 - 216:03	**Hilliard, Gary 01-10-2019 (00:00:05)** 216:2 Q. There's yours, sir, and there's 216:3 yours.	GH07.183
216:04 - 217:10	**Hilliard, Gary 01-10-2019 (00:01:05)** 216:4 All right. I've handed you a 216:5 PowerPoint deck titled Lifestyle Drugs & 216:6 Internet Pharmacies. 216:7 Do you see that? 216:8 A. I see that. 216:9 Q. Okay. And it's noted to be, in 216:10 the slide at the far right there, it says 216:11 National Operations Conference 2007. 216:12 Do you see that reference? 216:13 A. I see that.	GH07.184

Page/Line	Source	ID
	216:14 Q. Okay. Have you seen this slide 216:15 deck before? 216:16 A. I have seen it before. 216:17 Q. Okay. And it's noted to be 216:18 created by Donald Walker, who we've talked 216:19 about a little bit earlier, right? 216:20 A. That's correct. 216:21 Q. Okay. And if you go here to 216:22 page .3, there's a slide on this PowerPoint 216:23 deck titled Public Health Issues. 216:24 Do you see where I'm at? 216:25 A. I see that. 217:1 Q. Okay. The first bullet point 217:2 there says: Abuse of prescription drugs has 217:3 risen 66% since 2000. 217:4 Do you see that reference? 217:5 A. I see it. 217:6 Q. And the third bullet point 217:7 says: Opioid painkillers kill more than 217:8 cocaine and heroin combined. 217:9 Do you see that as well? 217:10 A. I see that.	
217:18 - 218:20	**Hilliard, Gary 01-10-2019 (00:00:50)** 217:18 Q. And then if we go to the next 217:19 page, page .4, it says DEA Focus is the title 217:20 of this slide. 217:21 Do you see where I'm at? 217:22 A. I see that. 217:23 Q. Okay. And it says -- you see 217:24 where it says, "DEA expects"? 217:25 A. I see it. 218:1 Q. Under that it says: We "know 218:2 our customers." 218:3 Do you see that reference? 218:4 A. I see that. 218:5 Q. The Know Your Customer tag line 218:6 here, are you familiar with what that refers 218:7 to? 218:8 A. I am. 218:9 Q. Okay. What does it refer to?	**GH07.185**

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	218:10 A. Understanding our customers'	
	218:11 business.	
	218:12 Q. Okay. The second bullet point	
	218:13 says: Wholesalers accountable for	
	218:14 controlling quantities shipped.	
	218:15 Do you see that reference?	
	218:16 A. I see that.	
	218:17 Q. And the last bullet point says:	
	218:18 5,000 dose units is "average."	
	218:19 Do you see where that's at?	
	218:20 A. I see that.	
219:07 - 219:11	**Hilliard, Gary 01-10-2019 (00:00:11)**	GH07.186
	219:7 Q. Okay. Do you have any	
	219:8 recollection of the 5,000 number being	
	219:9 discussed around this time frame as an	
	219:10 average for controlled substances purchases	
	219:11 for pharmacies?	
219:14 - 220:01	**Hilliard, Gary 01-10-2019 (00:00:41)**	GH07.187
	219:14 A. There was comments of the 5,000	
	219:15 dosage units for the -- for lifestyle drug	
	219:16 controlled substances. That's the only	
	219:17 reference that I remember for this quantity.	
	219:18 QUESTIONS BY MR. BOGLE:	
	219:19 Q. Okay. And those would be --	
	219:20 let me see if I can find it, one second --	
	219:21 oxycodone, hydrocodone, phentermine and	
	219:22 alprazolam, right?	
	219:23 A. That sounds correct.	
	219:24 Q. And those are the four drugs	
	219:25 that were included in the LDMP, right?	
	220:1 A. That's correct.	
220:16 - 221:13	**Hilliard, Gary 01-10-2019 (00:00:46)**	GH07.188
	220:16 Q. And it says: Establish	
	220:17 threshold for excessive quantities - 8,000	
	220:18 dose units.	
	220:19 Do you see that reference?	
	220:20 A. I see the reference.	
	220:21 Q. Okay. Now, I think we talked	
	220:22 about at the beginning of the deposition that	
	220:23 you were actually the drafter of the LDMP,	

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	220:24 right?	
	220:25 A. I helped to draft it.	
	221:1 Q. Helped draft it. Okay.	
	221:2 Who helped you draft it?	
	221:3 A. I believe Tracy was involved	
	221:4 with it as well.	
	221:5 Q. Jonas?	
	221:6 A. Yeah, sorry, Tracy Jonas. But	
	221:7 I don't recall specifically.	
	221:8 Q. Okay. Well, let me ask you	
	221:9 this: Since you were involved in the	
	221:10 drafting of the LDMP, why was 8,000 dose	
	221:11 units set as the threshold for excessive	
	221:12 quantities in the LDMP? How was that number	
	221:13 chosen?	
221:16 - 221:23	**Hilliard, Gary 01-10-2019 (00:00:18)**	GH07.189
	221:16 A. I don't recall how that number	
	221:17 came about. This would have been through	
	221:18 discussions with Don Walker.	
	221:19 QUESTIONS BY MR. BOGLE:	
	221:20 Q. Okay. Because we just saw a	
	221:21 minute ago another slide where DEA is noting	
	221:22 5,000 dosage units to be average. So why not	
	221:23 just set it at 5,000?	
222:01 - 222:03	**Hilliard, Gary 01-10-2019 (00:00:07)**	GH07.190
	222:1 A. Again, I don't recall how that	
	222:2 number came about. This would have gone	
	222:3 through a directive with Don Walker.	
222:22 - 223:01	**Hilliard, Gary 01-10-2019 (00:00:12)**	GH07.191
	222:22 Q. And then the additional bullet	
	222:23 point here says, below that: Thorough due	
	222:24 diligence of customers exceeding threshold.	
	222:25 And that was what was intended	
	223:1 to happen under that program, right?	
223:04 - 223:04	**Hilliard, Gary 01-10-2019 (00:00:02)**	GH07.192
	223:4 A. That's my recollection.	
224:22 - 225:06	**Hilliard, Gary 01-10-2019 (00:00:24)**	GH07.193
	224:22 Q. Okay. You were actually	
	224:23 involved in auditing the Lifestyle Drug	
	224:24 Monitoring Program in 2007, right?	

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	224:25 A. I don't recall specifically 225:1 what was in the audit at that time, but it's 225:2 possible. 225:3 Q. Okay. And you recall that 225:4 during that 2007 audit process, there were 225:5 some significant shortcomings found with the 225:6 program, right?	
225:08 - 225:08	**Hilliard, Gary 01-10-2019 (00:00:01)** 225:8 A. I don't recall.	GH07.194
225:12 - 225:14	**Hilliard, Gary 01-10-2019 (00:00:13)** 225:12 Q. Okay. I'm going to hand you 225:13 what I'm marking as Exhibit 15, which is 225:14 1.1887, MCKMDL00591949.	GH07.195
225:18 - 226:15	**Hilliard, Gary 01-10-2019 (00:00:55)** 225:18 Q. You'll see this document is 225:19 titled Lifestyle Drug Program, McKesson U.S. 225:20 Pharma - DEA Licensure Audit. 225:21 Do you see that? 225:22 A. I see that. 225:23 Q. Okay. And you're noted to be 225:24 the process owner here, right? 225:25 A. Yes, I am listed here. 226:1 Q. What does "process owner" mean? 226:2 A. The person to discuss the 226:3 processes around the LDMP. 226:4 Q. Okay. And the last revised 226:5 date noted on this document is July 27, 2007. 226:6 Do you see that? 226:7 A. Yes, I do. 226:8 Q. Okay. In the first line there, 226:9 in Overview, it says: The Lifestyle Drug 226:10 Program is a response to the DEA's 226:11 requirement to monitor the ordering/sales of 226:12 DEA identified "Lifestyle Drugs" and to "know 226:13 our customer." 226:14 Do you see that reference? 226:15 A. I see it.	GH07.196
228:01 - 228:02	**Hilliard, Gary 01-10-2019 (00:00:04)** 228:1 Q. Okay. So in the last two 228:2 sentences on this page, it says: The sales	GH07.197

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228:03 - 229:15	**Hilliard, Gary 01-10-2019 (00:01:18)**	GH07.198

228:3 quantity is measured by dose rather than
228:4 ordering unit and the current volume
228:5 threshold is 8,000 doses. The threshold was
228:6 determined by the Regulatory Department.
228:7 Do you see that reference?
228:8 A. I see that.
228:9 Q. Okay. And the regulatory
228:10 department at that time -- there's actually a
228:11 chart there above -- is you, Don Walker,
228:12 Bruce Russell, right?
228:13 A. That's correct.
228:14 Q. Okay. And as we turn to the
228:15 next page, it says, on the top there, first
228:16 line: Because the list of products being
228:17 monitored was determined by Business
228:18 Intelligence, it is possible not all products
228:19 containing one of the generic ingredients
228:20 were included. It is possible that the
228:21 controlled substances being monitored are
228:22 being underreported.
228:23 Do you see that?
228:24 A. I see that.
228:25 Q. Okay. Do you recall that
229:1 finding --
229:2 A. I do not.
229:3 Q. -- being made?
229:4 A. I do not.
229:5 Q. Okay. Was any further
229:6 investigation done as to whether in fact
229:7 there was underreporting under the LDMP?
229:8 A. There may have been, but I
229:9 don't recall it.
229:10 Q. Okay. That's a significant
229:11 issue, though, right? If there is
229:12 underreporting occurring, then the thresholds
229:13 wouldn't be -- the determination of when
229:14 somebody met a threshold wouldn't be
229:15 accurate, right?

229:18 - 229:22	**Hilliard, Gary 01-10-2019 (00:00:06)**	GH07.199

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	229:18 A. We want accurate data, so...	
	229:19 QUESTIONS BY MR. BOGLE:	
	229:20 Q. Right. And if there's	
	229:21 underreporting occurring, the data wouldn't	
	229:22 be accurate, right?	
229:25 - 230:03	**Hilliard, Gary 01-10-2019 (00:00:04)**	GH07.200
	229:25 A. Yeah. It's a possibility.	
	230:1 QUESTIONS BY MR. BOGLE:	
	230:2 Q. Right. And that's why it's	
	230:3 listed here as a possibility, right?	
230:06 - 230:07	**Hilliard, Gary 01-10-2019 (00:00:03)**	GH07.201
	230:6 A. Yeah. That's what the auditor	
	230:7 states.	
230:08 - 231:06	**Hilliard, Gary 01-10-2019 (00:00:53)**	GH07.202
	230:8 QUESTIONS BY MR. BOGLE:	
	230:9 Q. Okay. And if you'd go to the	
	230:10 third paragraph on this page, it says:	
	230:11 Although McKesson typically directs customers	
	230:12 to order from only one DC, it's possible for	
	230:13 a customer to order product from multiple	
	230:14 DCs. Since the Daily Dosage Summary Report	
	230:15 is organized by DC, a customer may be on	
	230:16 multiple DC reports. In that case, the Data	
	230:17 Analyst coordinates with the two DCMs to	
	230:18 determine which will handle the customer	
	230:19 review.	
	230:20 On the other hand, situations	
	230:21 where a customer is using more than one DC	
	230:22 and the sales of "Lifestyle Drugs" at either	
	230:23 DC is not greater than 8,000 doses but the	
	230:24 total sales is greater than 8,000 doses would	
	230:25 be missed by the current process.	
	231:1 Additionally, customers with	
	231:2 multiple accounts at a single DC with	
	231:3 aggregate sales exceeding the thresholds are	
	231:4 being missed by the current process.	
	231:5 Do you see that?	
	231:6 A. I see that.	
231:07 - 231:13	**Hilliard, Gary 01-10-2019 (00:00:17)**	GH07.203
	231:7 Q. Do you recall this deficiency	

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	231:8 being pointed out in this audit? 231:9 A. I don't recall. Customers were 231:10 assigned to a specific location usually based 231:11 on geographic regions, so it would be unusual 231:12 if this occurred. I don't specifically 231:13 recall it.	
231:14 - 231:24	**Hilliard, Gary 01-10-2019 (00:00:20)** 231:14 Q. Okay. Do you recall any 231:15 investigation being done after this to 231:16 determine if there were customers that were 231:17 being handled by multiple distribution 231:18 centers, to address this concern? 231:19 A. Not that -- not that I recall. 231:20 Q. What about customers with 231:21 multiple accounts at one distribution center, 231:22 as is outlined here? Do you recall that 231:23 being investigated after this audit? 231:24 A. I don't recall.	GH07.204
232:04 - 232:10	**Hilliard, Gary 01-10-2019 (00:00:16)** 232:4 A. circumstance where a customer 232:5 is being handled by multiple distribution 232:6 centers under the Lifestyle Drug Monitoring 232:7 Program, if the report is handled by 232:8 distribution center, they could exceed the 232:9 8,000 threshold without the company knowing 232:10 it, right?	GH07.205
232:13 - 232:20	**Hilliard, Gary 01-10-2019 (00:00:21)** 232:13 A. There could be other analytical 232:14 tools that were being used in addition to 232:15 this. So, again, I wasn't familiar -- I 232:16 don't remember this occurring because 232:17 customers were assigned to a geographic 232:18 region, assigned to a distribution center. 232:19 So I don't specifically 232:20 remember this scenario.	GH07.206
233:10 - 233:18	**Hilliard, Gary 01-10-2019 (00:00:22)** 233:10 Q. Okay. Internal audit at 233:11 McKesson during this time period, were their 233:12 conclusions, from your perspective, generally 233:13 accurate?	GH07.207

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	233:14 A. I have no reason to think 233:15 otherwise. Internal audit a lot of times was 233:16 a third party that McKesson would hire. But 233:17 I have no reason to believe there was an 233:18 issue with them.	
234:14 - 235:05	**Hilliard, Gary 01-10-2019 (00:00:34)** 234:14 Q. The next paragraph said -- 234:15 says: The DCs are burdened by the amount of 234:16 information on one report. Meaning, a 234:17 customer that has already been reviewed and 234:18 the sales quantity determined to be 234:19 legitimate will continue to be included on 234:20 the report as long as the volume is above the 234:21 threshold. Also, it is not possible to tell 234:22 from the report what stage of review the 234:23 customer is in. If the DCs become 234:24 overwhelmed by the LDMP, something will be 234:25 missed. 235:1 Do you see that? 235:2 A. I see that. 235:3 Q. And certainly, you guys didn't 235:4 want anything to be missed under the LDMP, 235:5 right?	GH07.208
235:07 - 235:08	**Hilliard, Gary 01-10-2019 (00:00:03)** 235:7 A. We wanted accurate data and 235:8 reporting.	GH07.209
235:19 - 235:21	**Hilliard, Gary 01-10-2019 (00:00:08)** 235:19 Q. All right. I'm going to hand 235:20 you Exhibit 1.1913, also marked as 235:21 Exhibit 16.	GH07.210
236:01 - 236:09	**Hilliard, Gary 01-10-2019 (00:00:15)** 236:1 Lifestyle Drug Program, McKesson U.S. 236:2 Pharma - DEA Licensure Audit of Landover, 236:3 Maryland DC. 236:4 Do you see that? 236:5 A. I see that. 236:6 Q. Okay. The date on this one is 236:7 August 17, 2007 is the last revised date. 236:8 Do you see that there? 236:9 A. I see that.	GH07.211

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236:16 - 237:23	**Hilliard, Gary 01-10-2019 (00:01:02)** 236:16 Q. All right. Section 1.1 says 236:17 right under that: The Distribution Center 236:18 Manager for Landover and the local Sales Team 236:19 has met and collaborated on how to handle the 236:20 Lifestyle Drug Monitoring Program. There 236:21 were two incidents in the past 2-3 years that 236:22 proved it necessary to take more interest in 236:23 reviewing narcotics/controlled substance 236:24 purchases and buying activity for customers. 236:25 During the interview with IA -- which is 237:1 internal audit, right? 237:2 A. That's correct. 237:3 Q. Okay. 237:4 -- the DCM noted that the 237:5 current monitoring program at Landover does 237:6 not include any MHS accounts. 237:7 MHS is the hospital accounts? 237:8 A. That's correct. 237:9 Q. -- or Retail National Accounts. 237:10 Those are the large chain 237:11 pharmacies, right? 237:12 A. Also correct. 237:13 Q. Okay. The accounts being 237:14 monitored are primarily the Retail 237:15 Independent accounts. 237:16 Those are the smaller 237:17 independent pharmacies, right? 237:18 A. Correct. 237:19 Q. Okay. So the goal of the 237:20 Lifestyle Drug Monitoring Program was that 237:21 all pharmacies were to be monitored, right? 237:22 It wasn't just for independent pharmacies, 237:23 was it?	GH07.212
238:01 - 238:02	**Hilliard, Gary 01-10-2019 (00:00:04)** 238:1 A. I don't recall what was stated 238:2 in the SOP for that part.	GH07.213
239:10 - 239:13	**Hilliard, Gary 01-10-2019 (00:00:15)** 239:10 Q. Okay. Well, let's take a look 239:11 at the SOP itself on this issue, then, so we	GH07.214

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	239:12 can sew that up. It's 1.1333, Exhibit 17 to	
	239:13 your deposition, which is MCKMDL00330211.	
239:17 - 241:04	**Hilliard, Gary 01-10-2019 (00:01:26)**	GH07.215
	239:17 Q. Okay. What I've handed you is	P-42535.1
	239:18 from the McKesson Operations Manual titled	P-42535.1.1
	239:19 Lifestyle Drug Monitoring Program.	
	239:20 Do you recognize this document?	
	239:21 A. Yes, I do.	
	239:22 Q. Okay. This is the SOP, right,	
	239:23 for LDMP?	
	239:24 A. Correct.	
	239:25 Q. Okay. I just want to address	
	240:1 the issue we were talking about with Landover	
	240:2 about whether MHS, which is the hospital	
	240:3 accounts, and the retail national accounts,	
	240:4 were supposed to be monitored under this	
	240:5 program. So if you take a look at the last	
	240:6 paragraph on the first page where it says,	
	240:7 "If the account."	P-42535.1.2
	240:8 Do you see that reference?	
	240:9 A. I see that.	
	240:10 Q. It says: If the account is a	P-42535.1.3
	240:11 large customer that McKesson expects to	
	240:12 purchase in large quantities, for example:	
	240:13 Institutional, warehouse accounts, government	
	240:14 or mail-order, then you'll generally only	
	240:15 have to perform a Level I review. However,	
	240:16 large spikes of any customer, including	
	240:17 hospitals, warehouse accounts, or government	
	240:18 accounts, must be evaluated.	
	240:19 Do you see that?	
	240:20 A. I see it.	
	240:21 Q. Okay. So does this indicate to	
	240:22 you that it wasn't just the small independent	
	240:23 chains that were supposed to be evaluated in	
	240:24 this program?	
	240:25 A. Yes. So the expectation is the	
	241:1 larger accounts, government accounts, mail	
	241:2 orders, they are going to have the large	
	241:3 quantities. But, yes, it does list the	

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	241:4 hospitals and warehouse accounts.	
241:05 - 241:11	**Hilliard, Gary 01-10-2019 (00:00:16)**	GH07.216
	241:5 Q. Just looking at the LDMP 241:6 itself, it does not on its face limit itself 241:7 to independent pharmacies, does it? 241:8 A. Not that I recall. 241:9 Q. And not that you see here 241:10 either, right? 241:11 A. Right.	
241:12 - 241:17	**Hilliard, Gary 01-10-2019 (00:00:17)**	GH07.217 clear
	241:12 Q. Now, the due diligence required 241:13 under the LDMP was supposed to be conducted 241:14 by the distribution center as soon as the 241:15 customer hits the 8,000 number, right? Due 241:16 diligence was supposed to be instituted 241:17 immediately thereafter, right?	
241:19 - 241:25	**Hilliard, Gary 01-10-2019 (00:00:17)**	GH07.218
	241:19 A. I believe that's what was 241:20 stated. 241:21 QUESTIONS BY MR. BOGLE: 241:22 Q. Okay. And I'm going to hand 241:23 you next, then, what I'm marking as 241:24 Exhibit 18, which is 1.1918, and that's 241:25 MCKMDL00591858.	
242:04 - 242:04	**Hilliard, Gary 01-10-2019 (00:00:03)**	GH07.219
	242:4 Q. There you go, sir.	
242:05 - 242:17	**Hilliard, Gary 01-10-2019 (00:00:24)**	GH07.220
	242:5 And this is another Lifestyle 242:6 Drug Program, McKesson U.S. Pharma - DEA 242:7 Licensure Audit, this time for the Southern 242:8 California distribution center. 242:9 Do you see that? 242:10 A. I see that. 242:11 Q. This one's last revised date is 242:12 August 23, 2007. 242:13 Do you see where that's 242:14 referenced? 242:15 A. I see that. 242:16 Q. Okay. I want to look at 242:17 Section 1.1 again. And again, that first	

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242:18 - 244:01	**Hilliard, Gary 01-10-2019 (00:01:29)**	GH07.221

242:18 paragraph under 1.1 says: The Distribution
242:19 Center Manager for So Cal DC and the local
242:20 Sales Team has met and collaborated on how to
242:21 handle the Lifestyle Drug Monitoring Program.
242:22 During the interview with IA -- which again,
242:23 is internal audit, right?
242:24 A. Correct.
242:25 Q. -- the DCM noted that the
243:1 current monitoring program at So Cal does not
243:2 include any MHS accounts or Retail National
243:3 Accounts. The accounts being monitored are
243:4 primarily the Retail Independent accounts.
243:5 Do you see where that's stated?
243:6 A. I see that.
243:7 Q. And if you can go to page .3.
243:8 I'm on Section 1.4, where it says: DC's
243:9 Observation of the LDMP.
243:10 Do you see that section?
243:11 A. I see that.
243:12 Q. The second sentence in the
243:13 second paragraph under that says: Marc
243:14 states that in his opinion, the monitoring
243:15 done by Jan Phillips is done "after the fact"
243:16 and should be initiated sooner from her
243:17 level.
243:18 Do you see that?
243:19 A. I see that.
243:20 Q. And Marc is the distribution
243:21 center manager for that distribution center,
243:22 right?
243:23 A. Correct.
243:24 Q. Okay. And "the monitoring" is
243:25 talking about the monitoring under the LDMP,
244:1 right?

244:04 - 244:09	**Hilliard, Gary 01-10-2019 (00:00:14)**	GH07.222

244:4 A. That's what's stated here.
244:5 QUESTIONS BY MR. BOGLE:
244:6 Q. And again, the purpose of the
244:7 LDMP was not to do the review after the fact

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	244:8 but to do it as soon as possible once they 244:9 hit the 8,000 number, right?	
244:12 - 244:12	**Hilliard, Gary 01-10-2019 (00:00:01)** 244:12 A. That's my recollection.	GH07.223
244:13 - 244:17	**Hilliard, Gary 01-10-2019 (00:00:18)** 244:13 QUESTIONS BY MR. BOGLE: 244:14 Q. All right. I just want to show 244:15 you one more of these audits, which is 244:16 Exhibit 1.1917, marked as Exhibit 19 to your 244:17 deposition, and that's MCKMDL00591251.	GH07.224
244:21 - 245:07	**Hilliard, Gary 01-10-2019 (00:00:25)** 244:21 Q. And this is an Audit Report, 244:22 DEA Licensure Compliance and LDMP Audit, U.S. 244:23 Pharmaceuticals. 244:24 Do you see that at the top? 244:25 A. I see that. 245:1 Q. And this is sent to both 245:2 yourself and Bruce Russell, right? 245:3 A. That is correct. 245:4 Q. Okay. And it says the date 245:5 audit completed here was August 31, 2007. 245:6 Do you see that reference? 245:7 A. Yes, I see that.	GH07.225
245:12 - 247:14	**Hilliard, Gary 01-10-2019 (00:02:09)** 245:12 Q. Okay. Let's go to page .7 of 245:13 this document. Under number 1, under the 245:14 Issue/Observation column, you see where it 245:15 says Lifestyle Drugs Monitoring Program? 245:16 A. Yes, I do. 245:17 Q. Okay. The first bullet point 245:18 below that says: Account reps and/or the 245:19 Customer Care groups associated with Retail 245:20 National Accounts and Hospital accounts are 245:21 unaware of the directive to monitor Lifestyle 245:22 Drugs and are not performing this task. 245:23 Do you see that? 245:24 A. I see that. 245:25 Q. Okay. And there's actually a 246:1 Risk column to the right of that for this 246:2 specific issue, right?	GH07.226

Page/Line	Source	ID
	246:3 A. Yes, there is. 246:4 Q. Okay. And under Significance 246:5 for Risk related to this issue, it's noted to 246:6 be moderate, right? 246:7 A. Correct. 246:8 Q. And the actual risk outlined 246:9 is: Differences in the LDMP execution will 246:10 lead to inefficiencies as it relates to 246:11 compliance with the DEA expectations. 246:12 Do you see that statement? 246:13 A. I see that. 246:14 Q. Do you agree with that 246:15 statement, if there's differences in LDMP 246:16 execution it's going to lead to 246:17 inefficiencies with compliance? 246:18 A. Yes. That could happen. 246:19 Q. And then I want to look at one 246:20 more thing here on the next page. The top 246:21 bullet point here under Issues/Observations 246:22 says: Provide structured training to DC 246:23 personnel or other functions that provide 246:24 input to the DEA process. Compliance 246:25 regulations are not reinforced or 247:1 periodically revisited for updates relative 247:2 to DEA changes or mandates. 247:3 Do you see that reference? 247:4 A. I see the reference. 247:5 Q. Okay. And then related to that 247:6 bullet point, there's a risk of: Lack of 247:7 process oversight could lead to 247:8 noncompliance. 247:9 Do you see that? 247:10 A. I see that. 247:11 Q. Okay. Do you agree that lack 247:12 of process oversight with any measure in 247:13 regulatory affairs could lead to 247:14 noncompliance?	
247:17 - 247:19	**Hilliard, Gary 01-10-2019 (00:00:08)** 247:17 A. Process oversight should occur 247:18 to ensure compliance with the LDMP program	GH07.227

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	247:19 that was implemented.	
272:07 - 272:10	**Hilliard, Gary 01-10-2019 (00:00:15)**	GH07.228
	272:7 Q. Okay. I'm handing you what I'm 272:8 marking as Exhibit 22 to your deposition, 272:9 which is Exhibit 1.1962, and that's 272:10 MCKMDL00543610.	
272:14 - 273:03	**Hilliard, Gary 01-10-2019 (00:00:35)**	GH07.229
	272:14 Q. We see here this is a series of 272:15 e-mails with an attached flier titled 272:16 McKesson Controlled Substances Monitoring 272:17 Program, Program Guide for Pharmacies. 272:18 Do you see that on the third 272:19 page? 272:20 A. I see that. 272:21 Q. Okay. And the e-mail that 272:22 attaches this, if you go back to the first 272:23 page, is from April 17, 2008. 272:24 Do you see that? 272:25 A. I see that. 273:1 Q. This is right around the time 273:2 the CSMP was being launched, right? 273:3 A. That sounds correct.	
274:06 - 274:12	**Hilliard, Gary 01-10-2019 (00:00:12)**	GH07.230
	274:6 Q. Okay. And the next-to-last one 274:7 says: Customers will be alerted in advance 274:8 of meeting or exceeding their thresholds. 274:9 Do you see that reference? 274:10 A. Yes, I see that. 274:11 Q. Okay. And that was a process 274:12 known as a Threshold Warning Report, right?	
274:15 - 274:22	**Hilliard, Gary 01-10-2019 (00:00:15)**	GH07.231
	274:15 A. That's my recollection. 274:16 QUESTIONS BY MR. BOGLE: 274:17 Q. Okay. And basically, the 274:18 concept being that once the customer met a 274:19 certain percentage of their threshold, they 274:20 would be notified that they were approaching 274:21 their threshold for a controlled substance, 274:22 right?	
274:25 - 274:25	**Hilliard, Gary 01-10-2019 (00:00:02)**	GH07.232

Page/Line	Source	ID
	274:25 A. That's also my recollection.	
276:07 - 276:09	**Hilliard, Gary 01-10-2019 (00:00:06)**	GH07.233
	276:7 Q. Okay. Now, I want to talk to 276:8 you a little bit more about the Threshold 276:9 Warning Report concept. The purpose of the	
276:10 - 276:14	**Hilliard, Gary 01-10-2019 (00:00:13)**	GH07.234
	276:10 Threshold Warning Reports was to make sure 276:11 that the customer was aware when they were 276:12 approaching a threshold so they could ask for 276:13 an increase before their supply got cut off, 276:14 right?	
276:17 - 276:21	**Hilliard, Gary 01-10-2019 (00:00:07)**	GH07.235
	276:17 A. That's my recollection. 276:18 QUESTIONS BY MR. BOGLE: 276:19 Q. Okay. And also to make sure 276:20 that, quite frankly, McKesson didn't lose 276:21 those sales, right?	
276:24 - 277:01	**Hilliard, Gary 01-10-2019 (00:00:07)**	GH07.236
	276:24 A. No. It would be so that due 276:25 diligence could be conducted to determine if 277:1 they needed additional threshold increase.	
277:20 - 277:24	**Hilliard, Gary 01-10-2019 (00:00:11)**	GH07.237
	277:20 Q. Okay. Do you recall being 277:21 involved in any discussions about the need to 277:22 set up a Threshold Warning Report for the 277:23 very specific purpose of making sure McKesson 277:24 didn't lose sales of controlled substances?	
278:02 - 278:02	**Hilliard, Gary 01-10-2019 (00:00:01)**	GH07.238
	278:2 A. No.	
278:05 - 278:10	**Hilliard, Gary 01-10-2019 (00:00:18)**	GH07.239
	278:5 A. No, I do not recall ever having 278:6 any conversations of that nature. 278:7 QUESTIONS BY MR. BOGLE: 278:8 Q. Okay. I'm going to hand you 278:9 what I'm marking as Exhibit 23, which is 278:10 1.1804, and that's MCKMDL00543971.	
278:14 - 278:14	**Hilliard, Gary 01-10-2019 (00:00:02)**	GH07.240
	278:14 Q. There you go, sir.	
278:15 - 280:19	**Hilliard, Gary 01-10-2019 (00:02:21)**	GH07.241
	278:15 All right. Let's start at the	

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278:16 last page of the document, .3. There's an
278:17 e-mail at the bottom from you, October 23,
278:18 2006, to a Sharon Mackarness.
278:19 Do you see that?
278:20 A. I see that.
278:21 Q. Okay. There you say: McKesson
278:22 will establish a monthly threshold of 10,000
278:23 dosage forms of hydrocodone for all customers
278:24 at each of its facilities. Customers
278:25 requesting to purchase more than this amount
279:1 will be required to provide additional
279:2 information on its dispensing practices to
279:3 justify amounts above this threshold. Such
279:4 information will be reviewed by McKesson
279:5 Regulatory Affairs before a customer will be
279:6 authorized to purchase more than 10,000
279:7 dosage forms per month. McKesson will also
279:8 establish thresholds for other controlled
279:9 substances purchases.
279:10 Do you see that e-mail?
279:11 A. I see that.
279:12 Q. Okay. So then if you go to
279:13 page .2, I'm looking at the e-mail from
279:14 Sharon Mackarness back to you, October 26,
279:15 2006, at 3:44 p.m.
279:16 Do you see that?
279:17 A. Yes, I see that.
279:18 Q. Okay. The second paragraph she
279:19 says to you: JB -- JD brought up a valid
279:20 point in the meeting. We are in the business
279:21 to sell product. If we could produce a
279:22 report (you may already have one) that warned
279:23 a customer's approach to the threshold, say
279:24 at 85% of their 10,000 dosages, work could
279:25 begin on justifying an increase in threshold
280:1 prior to any lost sales.
280:2 Do you see that?
280:3 A. I see that.
280:4 Q. Okay. And do you see your
280:5 response above in the second sentence in your

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	280:6 next e-mail, and what is that?	
	280:7 A. "I think JD's idea is good."	
	280:8 Q. Okay. And that's the idea	
	280:9 you're referencing, the one I just read	
	280:10 about, right?	
	280:11 A. The one stated in Sharon's	
	280:12 e-mail, yes.	
	280:13 Q. Right, okay. Which talks about	
	280:14 being in the business to sell product and	
	280:15 coming up with a threshold warning style	
	280:16 report that would allow customers to justify	
	280:17 an increase prior to McKesson losing sales,	
	280:18 right?	
	280:19 A. That's what's stated, yes.	
281:11 - 281:19	**Hilliard, Gary 01-10-2019 (00:00:20)**	GH07.242
	281:11 Q. All right, Mr. Hilliard. You	
	281:12 recall earlier in the deposition we talked	
	281:13 about the PowerPoint that was presented by	
	281:14 Mr. Mapes at the September 1, 2005 meeting	
	281:15 with McKesson? Do you recall discussing that	
	281:16 generally?	
	281:17 A. Yes, I do.	
	281:18 Q. Okay. If we can pull that back	
	281:19 out, which I believe is Exhibit 4, and I want	
281:20 - 281:20	**Hilliard, Gary 01-10-2019 (00:00:08)**	GH07.243
	281:20 to go back to page .9. We talked about this	
281:21 - 282:15	**Hilliard, Gary 01-10-2019 (00:00:51)**	GH07.244
	281:21 a little bit before, but that bottom slide	
	281:22 there titled Suspicious Orders, the last	
	281:23 bullet point says: Report suspicious orders	
	281:24 to DEA when discovered.	
	281:25 Do you see that?	
	282:1 A. I see that.	
	282:2 Q. Okay. And then on the next	
	282:3 page we talked about the last slide there,	
	282:4 the bottom slide there on that page, the	
	282:5 second bullet point, which says: Distributor	
	282:6 must determine which orders are suspicious	
	282:7 and make a sales decision.	
	282:8 Do you see that?	

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	282:9 A. Yes, I see that. 282:10 Q. Okay. So between these two 282:11 bullet points, and quite frankly, the rest of 282:12 the discussion here, what's being conveyed, 282:13 among other things, is that McKesson is 282:14 expected to report suspicious orders, not 282:15 suspicious sales after the fact, right?	
282:18 - 282:19	**Hilliard, Gary 01-10-2019 (00:00:02)** 282:18 A. The slide states "suspicious 282:19 orders."	GH07.245
282:21 - 282:25	**Hilliard, Gary 01-10-2019 (00:00:09)** 282:21 Q. Right. And the second 282:22 reference we just read talks about 282:23 determining which orders are suspicious and 282:24 making a sales decision, right? 282:25 A. That's what's stated.	GH07.246
284:07 - 284:17	**Hilliard, Gary 01-10-2019 (00:00:26)** 284:7 Q. Okay. And that was the 284:8 presentation from September 1, 2005, right? 284:9 A. That's correct. 284:10 Q. Okay. Then if we go back to 284:11 Exhibit 3, which is the Rannazzisi letter 284:12 from September 27, 2006, you recall 284:13 discussing this letter with me earlier today, 284:14 right? 284:15 A. Yes, I do. 284:16 Q. Okay. If we go to the second 284:17 page of the letter, there is a paragraph	GH07.247
284:18 - 285:19	**Hilliard, Gary 01-10-2019 (00:00:54)** 284:18 about three-quarters of the way down that 284:19 says, "Thus, in addition to." 284:20 Do you see that? 284:21 A. Yes, I do. 284:22 Q. It says: Thus, in addition to 284:23 reporting all suspicious orders, a 284:24 distributor has a statutory responsibility to 284:25 exercise due diligence to avoid filling 285:1 suspicious orders that might be diverted into 285:2 other than legitimate medical, scientific, 285:3 and industrial channels.	GH07.248

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	285:4 Do you see that?	
	285:5 A. I see that.	
	285:6 Q. Okay. And the next paragraph	
	285:7 down that we read before talks about the	
	285:8 distributor needing to exercise due care in	
	285:9 confirming the legitimacy of orders prior to	
	285:10 filling.	
	285:11 Do you see that reference in	
	285:12 the last sentence?	
	285:13 A. Yes, I see that now.	
	285:14 Q. Okay. So, again, this letter	
	285:15 from September 27, 2006, you would agree with	
	285:16 me makes clear that the expectation is that	
	285:17 McKesson will be reporting suspicious orders	
	285:18 and not filling them if it deems them	
	285:19 suspicious, right?	
285:22 - 285:22	**Hilliard, Gary 01-10-2019 (00:00:01)**	GH07.249
	285:22 A. That's what's stated on here.	
286:14 - 287:16	**Hilliard, Gary 01-10-2019 (00:00:50)**	GH07.250
	286:14 Q. Okay. And if you can pull back	
	286:15 out Exhibit 20. And this was a document we	
	286:16 discussed from the 2007 DEA conference.	
	286:17 Do you recall that?	
	286:18 A. Yes, I do.	
	286:19 Q. Okay. And specifically, the	
	286:20 e-mail that you -- I want to go back to the	
	286:21 e-mail you wrote September 11, 2007, which is	
	286:22 the middle of the first page.	
	286:23 You with me?	
	286:24 A. Yes, I am.	
	286:25 Q. Okay. We didn't read the	
	287:1 bottom portion of this e-mail on this page	
	287:2 where you actually also summarize another	
	287:3 presentation by Mr. Mapes.	
	287:4 Do you see where that summary	
	287:5 begins?	
	287:6 A. Yes, I do.	
	287:7 Q. Okay. First bullet point there	
	287:8 says: The requirement is to report	
	287:9 suspicious orders, not suspicious sales after	

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	287:10 the fact. 287:11 Right? 287:12 A. That's what's stated, yes. 287:13 Q. Okay. That's what you wrote, 287:14 right? 287:15 A. Correct, based on his 287:16 presentation.	
287:20 - 288:19	**Hilliard, Gary 01-10-2019 (00:00:47)** 287:20 Q. Okay. And then going five 287:21 bullet points down from there where it says 287:22 "Registrants"? 287:23 A. I see that. 287:24 Q. Registrants that routinely 287:25 report suspicious orders yet fill these 288:1 orders with reason to believe they are 288:2 destined for the illicit market, and failing 288:3 to maintain effective controls -- and failing 288:4 to maintain effective controls against 288:5 diversion. 288:6 Do you see that? 288:7 A. I see that. 288:8 Q. And again, that's your summary 288:9 of what Mr. Mapes presented that day, right? 288:10 A. That's correct. 288:11 Q. And the last bullet point below 288:12 that says: Registrant should make informed 288:13 decisions -- and then it's all caps -- BEFORE 288:14 making the sale. 288:15 Do you see that? 288:16 A. I see that. 288:17 Q. And again, that's your summary 288:18 of his presentation that day, right? 288:19 A. That's correct.	GH07.251
288:20 - 288:22	**Hilliard, Gary 01-10-2019 (00:00:14)** 288:20 Q. All right. I'm going to hand 288:21 you now what I'm marking as Exhibit 24, which 288:22 is 1.1937, and that's MCKMDL00623568.	GH07.252
289:07 - 290:06	**Hilliard, Gary 01-10-2019 (00:00:55)** 289:7 So the bottom e-mail on the 289:8 first page is one from Jenny Melton,	GH07.253

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289:9 August 26, 2008, again, sent to that
289:10 regulatory e-mail group, right?
289:11 A. Yes, it is.
289:12 Q. That I think we agreed earlier
289:13 you're a part of. True?
289:14 A. That's correct.
289:15 Q. Okay. What was Jenny Melton's
289:16 role with the company at this point?
289:17 A. Project manager.
289:18 Q. Okay. She worked in regulatory
289:19 affairs?
289:20 A. She routinely worked with
289:21 regulatory affairs on projects.
289:22 Q. Okay. The subject of her
289:23 e-mail there on August 26, 2008, is: CSMP
289:24 Suspicious Transaction Reporting to the DEA.
289:25 Do you see that?
290:1 A. I see that.
290:2 Q. And she lists there, carrying
290:3 over to the next page, six different subjects
290:4 under that heading.
290:5 Do you see that?
290:6 A. I see that.

290:07 - 292:16 **Hilliard, Gary 01-10-2019 (00:02:18)** GH07.254

290:7 Q. Going to number 5 which is on
290:8 the second page here, she says: The
290:9 suspicious designation will not be
290:10 systematically determined. Don or the DRAs
290:11 will determine whether a transaction is
290:12 deemed to be suspicious and the DRA will log
290:13 into BI and flag the transaction as a
290:14 suspicious transaction.
290:15 Do you see that?
290:16 A. I see that.
290:17 Q. Okay. You respond to her
290:18 e-mail on the same day, August 27, 2008. Do
290:19 you see where you respond right above that?
290:20 A. I see that.
290:21 Q. Okay. You say: Question. I
290:22 thought the requirement was raw data sales.

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290:23 As you have outlined, wouldn't this be
290:24 customer "orders" and not McKesson sales? If
290:25 a transaction/order is suspicious, we are not
291:1 to fulfill the order, thus nothing to
291:2 transmit.
291:3 Do you see that?
291:4 A. I see that.
291:5 Q. Okay. Then Tracy Jonas
291:6 responds above and says: I agree, Gary. I
291:7 was under the impression that this was merely
291:8 a "data dump" in a format that the DEA could
291:9 utilize.
291:10 Do you see that there?
291:11 A. I see that.
291:12 Q. Okay. Then Sheila Pacheco
291:13 responds and says, on the same day: The DEA
291:14 is asking for two different things on one
291:15 file. You're correct about the "data dump"
291:16 as you call it. Subsequently though, they
291:17 are also asking for us to flag suspicious
291:18 orders. Those will be determined by you and
291:19 there should be very few. You will need to
291:20 work together to identify what you might
291:21 define as suspicious.
291:22 Do you see that?
291:23 A. I see that.
291:24 Q. Okay. And then you respond
291:25 again in the top e-mail, same day, and you
292:1 say: That certainly complicates the
292:2 transaction reporting. This would mean, 1,
292:3 regulatory reviews every controlled substance
292:4 order daily (filled or not); or, 2, the
292:5 system is programmed to notify regulatory for
292:6 orders meeting a "suspicious" criteria.
292:7 (define suspicious; some form of DU45); or,
292:8 3 -- and you list three question marks there,
292:9 right?
292:10 A. Yes.
292:11 Q. And you say: I agree there
292:12 will be very few, but I expect the DEA will

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	292:13 want to know how (SOP) we are evaluating the 292:14 data. 292:15 Do you see that? 292:16 A. I see that.	
292:17 - 292:22	**Hilliard, Gary 01-10-2019 (00:00:16)** 292:17 Q. So in this e-mail chain, you -- 292:18 initially, in your August 27, 2008 first 292:19 response there, were operating under the 292:20 understanding that the DEA wanted suspicious 292:21 sales, not orders, right? That's what you 292:22 say.	**GH07.255**
292:25 - 293:16	**Hilliard, Gary 01-10-2019 (00:00:37)** 292:25 A. I say it: As you have 293:1 outlined, wouldn't this be customer "orders" 293:2 and not McKesson sales. 293:3 QUESTIONS BY MR. BOGLE: 293:4 Q. Right. Then you say: If a 293:5 transaction/order is suspicious, we are not 293:6 to fulfill the order, thus nothing to 293:7 transmit. 293:8 Right? 293:9 A. That's what's stated, yes. 293:10 Q. But as we just looked at in the 293:11 prior three documents, starting in 293:12 September 2005 all the way up to your last 293:13 e-mail in September 2007, three different 293:14 occasions where it's documented that the DEA 293:15 wants reports of suspicious orders, not 293:16 suspicious sales. Right?	**GH07.256**
293:19 - 293:19	**Hilliard, Gary 01-10-2019 (00:00:01)** 293:19 A. They stated the orders.	**GH07.257**
293:21 - 294:04	**Hilliard, Gary 01-10-2019 (00:00:37)** 293:21 Q. Right. Not sales. 293:22 A. And this is discussions for 293:23 creating the CSMP program in CSMP, so this is 293:24 development discussions to get to what 293:25 eventually becomes the CSMP program. 294:1 There was some collaboration or 294:2 agreement that took place whereas we were 294:3 sending information directly to DEA based on,	**GH07.258**

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	294:4 I think, the agreement from 2008.	
294:05 - 294:18	**Hilliard, Gary 01-10-2019 (00:00:32)** 294:5 Q. But if you go down to your 294:6 e-mail, your first e-mail response towards 294:7 the bottom of the first page, you 294:8 specifically say: If a transaction/order is 294:9 suspicious, we're not to fulfill the order, 294:10 thus nothing to transmit. 294:11 Right? 294:12 A. That was the discussion point. 294:13 Q. Right. But that's exactly the 294:14 opposite of what Mr. Mapes told you 294:15 September 11, 2007, when he's saying 294:16 specifically to report suspicious orders. To 294:17 stop the order, to block the order, and 294:18 report it, right?	GH07.259
296:04 - 296:08	**Hilliard, Gary 01-10-2019 (00:00:09)** 296:4 QUESTIONS BY MR. BOGLE: 296:5 Q. But when you go back to the top 296:6 e-mail that you wrote, you're actually 296:7 discussing the potential options of how you 296:8 might report a suspicious order, right?	GH07.260
296:12 - 296:12	**Hilliard, Gary 01-10-2019 (00:00:01)** 296:12 Q. How you would even do that.	GH07.261
294:21 - 294:23	**Hilliard, Gary 01-10-2019 (00:00:04)** 294:21 Q. You're saying here in the same 294:22 vein there would be nothing to transmit if 294:23 that happened.	GH07.262
296:15 - 297:02	**Hilliard, Gary 01-10-2019 (00:00:31)** 296:15 A. Again, this is bouncing ideas 296:16 off of each other, coming up with development 296:17 on how these reports would work. 296:18 QUESTIONS BY MR. BOGLE: 296:19 Q. I guess my question is simply 296:20 that we've looked at three documents from 296:21 September 2005 to September 2007 where 296:22 members of the DEA are expressing that 296:23 suspicious orders need to be blocked and 296:24 reported when they are blocked. 296:25 How could it be possible that	GH07.263

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	297:1 three years later you guys still don't know 297:2 how to do that?	
297:06 - 297:16	**Hilliard, Gary 01-10-2019 (00:00:24)** 297:6 A. The process was difficult. The 297:7 process took time. It took time to 297:8 implement, it took time for development. 297:9 Again, this is just one piece 297:10 of that project review and trying to get to a 297:11 better program. 297:12 QUESTIONS BY MR. BOGLE: 297:13 Q. Was it so complicated that it 297:14 took more than three years to develop how to 297:15 report a suspicious order if it's been 297:16 blocked?	GH07.264
295:01 - 295:15	**Hilliard, Gary 01-10-2019 (00:00:34)** 295:1 A. This was developmental 295:2 discussions in regards to what -- what and 295:3 how things would populate on reports and 295:4 transmits, and I honestly don't recall the 295:5 specifics or the outcome of this other than 295:6 what we were discussing in this 295:7 communication. 295:8 QUESTIONS BY MR. BOGLE: 295:9 Q. Okay. But three -- more than 295:10 three years after this first presentation 295:11 from Mr. Mapes in September 2005, you guys 295:12 are now in August 2008 and you're still not 295:13 clear on how to report suspicious orders that 295:14 you didn't fill? That's what this indicates, 295:15 right?	GH07.265
295:19 - 296:03	**Hilliard, Gary 01-10-2019 (00:00:29)** 295:19 A. I don't recall what all 295:20 additional conversations are outside of this 295:21 one e-mail communication. But again, this 295:22 was our work that we were trying to work 295:23 towards obtaining a better program, which was 295:24 a CSMP program. 295:25 So this was just an element of 296:1 that development and discussions on how to 296:2 get there, and, again, I don't know what else	GH07.266

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	296:3 was communicated.	
298:11 - 298:20	**Hilliard, Gary 01-10-2019 (00:00:21)**	GH07.267
	298:11 A. It took us until the 298:12 implementation of the CSMP in order to get 298:13 our systems to where they could appropriately 298:14 conduct the blocking. 298:15 QUESTIONS BY MR. BOGLE: 298:16 Q. And the reporting, it appears 298:17 like, too, right? Because you're saying if 298:18 they block it, you thought in August 27, 2008 298:19 there would be nothing to transmit, no report 298:20 to make if you blocked it.	P-42680.1.1
298:24 - 298:25	**Hilliard, Gary 01-10-2019 (00:00:01)**	GH07.268
	298:24 Q. Isn't that what you're saying 298:25 here?	
299:02 - 299:12	**Hilliard, Gary 01-10-2019 (00:00:20)**	GH07.269
	299:2 A. I don't recall the context of 299:3 this document. 299:4 QUESTIONS BY MR. BOGLE: 299:5 Q. Okay. Well, I'm looking at 299:6 your own statement. I'm not asking you to 299:7 interpret anybody else's. You say, on 299:8 August 27, 2008, at 5:51 a.m.: If a 299:9 transaction/order is suspicious, we're not to 299:10 fulfill the order, thus nothing to transmit. 299:11 That's exactly what you said, 299:12 right?	
297:20 - 298:06	**Hilliard, Gary 01-10-2019 (00:00:29)**	GH07.270
	297:20 A. Again, it took time for the 297:21 development. We were working towards doing 297:22 the blocking of the transactions and this was 297:23 just part of that development process. 297:24 QUESTIONS BY MR. BOGLE: 297:25 Q. Okay. But, again, we looked at 298:1 three documents; Exhibit 4, Exhibit 3, and 298:2 Exhibit 20, all where the DEA is saying make 298:3 a sales decision, block a sale, report 298:4 suspicious orders when they're blocked. Yet 298:5 we're looking now in August 2008 and you guys 298:6 still don't know how to do that, right?	

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299:17 - 299:24	**Hilliard, Gary 01-10-2019 (00:00:17)** 299:17 Q. Did I read any of that 299:18 incorrectly? 299:19 A. This was the discussion in 2008 299:20 10 years ago. I don't recall what all the 299:21 other discussions that were going on. This 299:22 was us working on the development process. 299:23 Q. My question was simply did I 299:24 read any portion of that sentence wrong?	GH07.271
300:02 - 300:02	**Hilliard, Gary 01-10-2019 (00:00:01)** 300:2 A. You read the e-mail.	GH07.272
342:13 - 342:18	**Hilliard, Gary 01-10-2019 (00:00:13)** 342:13 Q. Okay. And you mentioned that 342:14 McKesson would not know whether its customers 342:15 were getting controlled substances from other 342:16 distributors. 342:17 Do you recall that? 342:18 A. Yes, I do.	GH07.273 clear
343:20 - 343:24	**Hilliard, Gary 01-10-2019 (00:00:08)** 343:20 Q. Okay. But you're not aware of 343:21 any specific prohibition for McKesson asking 343:22 its customers whether it's purchasing opioids 343:23 from other distributors, do you? 343:24 A. I don't know.	GH07.274
344:03 - 344:07	**Hilliard, Gary 01-10-2019 (00:00:14)** 344:3 Q. You said that in 2006, there 344:4 were some new things coming from the DEA, new 344:5 directives, one you listed as blocking 344:6 orders. Do you recall mentioning that, that 344:7 was a new directive in the 2006 time frame?	GH07.275
344:10 - 344:10	**Hilliard, Gary 01-10-2019 (00:00:01)** 344:10 A. Yes, I do.	GH07.276
345:03 - 345:08	**Hilliard, Gary 01-10-2019 (00:00:12)** 345:3 Do you 345:4 have a specific opinion that McKesson, in 345:5 attempting to be a good corporate citizen, 345:6 would be doing a bad thing in blocking orders 345:7 it deemed suspicious for opioids prior to 345:8 2006?	GH07.277
345:11 - 345:11	**Hilliard, Gary 01-10-2019 (00:00:02)**	GH07.278

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	345:11 A. I don't know.	
349:11 - 349:15	**Hilliard, Gary 01-10-2019 (00:00:08)**	GH07.279
	349:11 Q. You mentioned, again, that your 349:12 understanding is the DU45 was developed from 349:13 some DEA task force meeting. 349:14 Do you recall talking about 349:15 that?	
349:19 - 349:25	**Hilliard, Gary 01-10-2019 (00:00:09)**	GH07.280
	349:19 Q. I'm just trying to orient you 349:20 to the prior question. Do you recall talking 349:21 about that with your counsel? 349:22 A. Yes. 349:23 Q. Okay. And again, you weren't 349:24 present for any such task force meeting, 349:25 right?	
350:03 - 350:04	**Hilliard, Gary 01-10-2019 (00:00:02)**	GH07.281
	350:3 A. Correct, I was not at the task 350:4 force.	
350:06 - 350:08	**Hilliard, Gary 01-10-2019 (00:00:04)**	GH07.285
	350:6 Q. So you have no firsthand 350:7 knowledge about what actually happened at 350:8 that task force meeting, do you?	
350:11 - 350:14	**Hilliard, Gary 01-10-2019 (00:00:15)**	GH07.286
	350:11 A. I read the documents that came 350:12 out of that. The Section 55 information and 350:13 reports that were created for the processes 350:14 that McKesson had were based on that output.	
350:16 - 350:18	**Hilliard, Gary 01-10-2019 (00:00:04)**	GH07.282
	350:16 Q. Do you have any documents that 350:17 came out of that meeting? 350:18 A. I do not currently.	

Plaintiffs Affirmative Designations = 01:21:19
Plaintiffs Counters = 00:01:13
Defense Counter Designations = 00:00:19
Defense Completeness Counters = 00:18:05
Total Time = 01:40:55

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